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Presidential Documents

Title 3—

The President

Notice of March 3, 2022

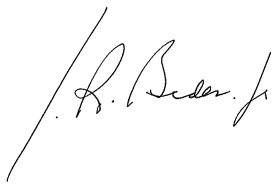
Continuation of the National Emergency With Respect to Iran

On March 15, 1995, by Executive Order 12957, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Government of Iran. On May 6, 1995, the President issued Executive Order 12959, imposing more comprehensive sanctions on Iran to further respond to this threat. On August 19, 1997, the President issued Executive Order 13059, consolidating and clarifying those previous orders. The President took additional steps pursuant to this national emergency in Executive Order 13553 of September 28, 2010; Executive Order 13574 of May 23, 2011; Executive Order 13590 of November 20, 2011; Executive Order 13599 of February 5, 2012; Executive Order 13606 of April 22, 2012; Executive Order 13608 of May 1, 2012; Executive Order 13622 of July 30, 2012; Executive Order 13628 of October 9, 2012; Executive Order 13645 of June 3, 2013; Executive Order 13716 of January 16, 2016, which revoked Executive Orders 13574, 13590, 13622, 13645, and provisions of Executive Order 13628; Executive Order 13846 of August 6, 2018, which revoked Executive Orders 13716 and 13628; Executive Order 13871 of May 8, 2019; Executive Order 13876 of June 24, 2019; Executive Order 13902 of January 10, 2020; and Executive Order 13949 of September 21, 2020.

The actions and policies of the Government of Iran—including its proliferation and development of missiles and other asymmetric and conventional weapons capabilities, its network and campaign of regional aggression, its support for terrorist groups, and the malign activities of the Islamic Revolutionary Guard Corps and its surrogates—continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.

For these reasons, the national emergency declared on March 15, 1995, must continue in effect beyond March 15, 2022. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Iran declared in Executive Order 12957. The emergency declared by Executive Order 12957 constitutes an emergency separate from that declared on November 14, 1979, by Executive Order 12170, in connection with the hostage crisis. This renewal, therefore, is distinct from the emergency renewal of November 9, 2021.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
March 3, 2022.

[FR Doc. 2022–04907
Filed 3–4–22; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Notice of March 3, 2022

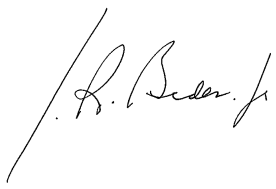
Continuation of the National Emergency With Respect to Venezuela

On March 8, 2015, the President issued Executive Order 13692, declaring a national emergency with respect to the situation in Venezuela, including the Government of Venezuela's erosion of human rights guarantees, persecution of political opponents, curtailment of press freedoms, use of violence and human rights violations and abuses in response to antigovernment protests, and arbitrary arrest and detention of antigovernment protesters, as well as the exacerbating presence of significant government corruption.

The President took additional steps pursuant to this national emergency in Executive Order 13808 of August 24, 2017; Executive Order 13827 of March 19, 2018; Executive Order 13835 of May 21, 2018; Executive Order 13850 of November 1, 2018; Executive Order 13857 of January 25, 2019; and Executive Order 13884 of August 5, 2019.

The circumstances, as described in Executive Order 13692 and in subsequent Executive Orders issued with respect to Venezuela, have not improved, and they continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13692.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,

March 3, 2022.

[FR Doc. 2022–04908

Filed 3–4–22; 8:45 am]

Billing code 3395–F2–P

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1019; Project Identifier 2020–CE–006–AD; Amendment 39–21956; AD 2022–05–05]

RIN 2120–AA64

Airworthiness Directives; Schempp-Hirth Flugzeugbau GmbH Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Schempp-Hirth Flugzeugbau GmbH Model Ventus-2a and Ventus-2b gliders. This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as severe corrosion on the inboard flaperon actuation push rods and ball bearing connecting the flaperon push rod to the bell crank inside the wing. This AD requires inspecting the affected parts of the flaperon control in the wings and taking corrective actions if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 11, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 11, 2022.

ADDRESSES: For service information identified in this final rule, contact Schempp-Hirth Flugzeugbau GmbH, Krebenstrasse 25, 73230 Kirchheim/Teck, Germany; phone: +49 7021 7298–0; fax: +49 7021 7298–199; email: *info@schempp-hirth.com;* website: *https://www.schempp-hirth.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1019.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1019; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the MCAI, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4165; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Schempp-Hirth Flugzeugbau GmbH Model Ventus-2a and Ventus-2b gliders. The NPRM published in the **Federal Register** on December 6, 2021 (86 FR 68937). The NPRM was prompted by MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued AD 2020–0063, dated March 18, 2020 (referred to after this as ''the MCAI''), to address an unsafe condition on Schempp-Hirth Flugzeugbau GmbH Models Ventus-2a, Ventus-2b, Ventus-2c, Ventus-2cM, and Ventus-2cT gliders. The MCAI states:

> Severe corrosion has been found on the inboard flaperon actuation push rod of some sailplanes. Subsequent investigation determined that, when water ballast is dumped in flight, some water may be sucked into the wing upper side and enter the wing via the flaperon push rod. Intruding water may cause corrosion especially on the ball bearing connecting the flaperon push rod to the bell crank inside the wing.
>
> This condition, if not detected an[d] corrected, could lead to hard steering (when the ball bearing is damaged) or increased play (when the ball bearing has failed), possibly resulting in reduced control of the (powered) sailplane.
>
> To address this potential unsafe condition, Schempp-Hirth Flugzeugbau GmbH issued the [technical note] TN to provide inspection and replacement instructions.
>
> For the reason described above, this [EASA] AD requires repetitive inspections of the affected parts, as identified in the TN, and, depending on findings, replacement with serviceable parts.

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1019.

In the NPRM, the FAA proposed to require compliance with the version of the TN (revision 2) identified in the MCAI. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Changes Made to This AD

After the NPRM was issued, the FAA received a copy of Schempp-Hirth Flugzeugbau GmbH Working Instructions for Technical Note No. 349–42/825–57, Revision 4, dated August 31, 2020. This revision of the TN provides clarification regarding the inspection area and instructions (including specifying that the mount is an affected part that must be inspected), the types of corrosion, and repair methods and instructions. This revision of the service information does not require additional work, because it does not impose any substantive changes to the procedures in revision 2.

As a result, the FAA has revised paragraph (g) of this AD to specify that the mount is an affected part that must be inspected and to require compliance with Schempp-Hirth Flugzeugbau GmbH Working Instructions for Technical Note No. 349–42/825–57, Revision 4, dated August 31, 2020. The FAA has also added paragraph (h) of this AD to provide credit for work done before the effective date of the AD using

Schempp-Hirth Flugzeugbau GmbH Working Instructions for Technical Note No. 349–42/825–57, Revision 2, dated February 24, 2020; or Schempp-Hirth Flugzeugbau GmbH Working Instructions for Technical Note No. 349–42/825–57, Revision 3, dated March 31, 2020. Lastly, the FAA has revised the preamble of this final rule accordingly.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for the changes described previously, this AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Schempp-Hirth Flugzeugbau GmbH Working Instructions for Technical Note No. 349–42/825–57, Revision 4, dated August 31, 2020. This service information contains procedures for inspecting the pushrod, joint head, mount, and bell crank of the flaperon control of the wings for corrosion or other damage, and replacing or servicing (repair) if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

The FAA also reviewed Schempp-Hirth Flugzeugbau GmbH Technical Note No. 349–42/825–57, Revision 4, dated August 31, 2020. This service information specifies inspecting the pushrod, joint head, mount, and bell crank of the flaperon control of the wings by following Schempp-Hirth Flugzeugbau GmbH Working Instructions for Technical Note No. 349–42/825–57, Revision 4, dated August 31, 2020.

Differences Between This AD and the MCAI

The MCAI applies to Schempp-Hirth Flugzeugbau GmbH Model Ventus-2c, Ventus-2cM, and Ventus-2cT gliders, and this AD does not because they do not have an FAA type certificate.

Costs of Compliance

The FAA estimates that this AD affects 33 gliders of U.S. registry. The FAA also estimates that it would take about 1 work-hour per glider to comply with the inspection required by this AD. Based on these figures, the FAA estimates the inspection cost of this AD on U.S. operators to be $2,805 or $85 per glider, per inspection cycle.

In addition, the FAA estimates that each repair or replacement action required by this AD would take up to 8 work-hours and require parts costing up to $800. Based on these figures, the FAA estimates the repair or replacement cost of this AD on U.S. operators to be up to $1,480 per glider.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2022–05–05 Schempp-Hirth Flugzeugbau GmbH: Amendment 39–21956; Docket No. FAA–2021–1019; Project Identifier 2020–CE–006–AD.

(a) Effective Date

This airworthiness directive (AD) is effective April 11, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Schempp-Hirth Flugzeugbau GmbH Model Ventus-2a and Ventus-2b gliders, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2700, Flight Control System.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as severe corrosion on the inboard flaperon actuation push rods and ball bearing connecting the flaperon push rod to the bell crank inside the wing. The FAA is issuing this AD to prevent hard steering and increased play. The unsafe condition, if not addressed, could result in reduced control of the glider.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspections and Corrective Actions

Within 90 days after the effective date of this AD and thereafter at intervals not to exceed 12 months, inspect the pushrod, joint head, mount, and bell crank of the flaperon control of the wings for corrosion and other damage, in accordance with Action 1 in Schempp-Hirth Flugzeugbau GmbH Working Instructions for Technical Note No. 349–42/825–57, Revision 4, dated August 31, 2020,

and before further flight, repair or replace the affected part, as applicable, in accordance with Action 2 in Schempp-Hirth Flugzeugbau GmbH Working Instructions for Technical Note No. 349–42/825–57, Revision 4, dated August 31, 2020.

(h) Credit for Previous Actions

You may take credit for the actions required by paragraph (g) of this AD if you performed those actions before the effective date of this AD using Schempp-Hirth Flugzeugbau GmbH Working Instructions for Technical Note No. 349–42/825–57, Revision 2, dated February 24, 2020; or Schempp-Hirth Flugzeugbau GmbH Working Instructions for Technical Note No. 349–42/825–57, Revision 3, dated March 31, 2020.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (j)(1) of this AD and email to: *9-AVS-AIR-730-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

(1) For more information about this AD, contact Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4165; email: *jim.rutherford@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2020–0063, dated March 18, 2020, for more information. You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1019.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (k)(3) and (4) of this AD.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Schempp-Hirth Flugzeugbau GmbH Working Instructions for Technical Note No. 349–42/825–57, Revision 4, dated August 31, 2020.

Note 1 to paragraph (k)(2)(i): This service information contains German to English translation. EASA used the English translation in referencing the document from Schempp-Hirth Flugzeugbau GmbH. For enforceability purposes, the FAA will cite references to the service information in English as it appears on the document.

(ii) [Reserved]

(3) For service information identified in this AD, contact Schempp-Hirth Flugzeugbau GmbH, Krebenstrasse 25, 73230 Kirchheim/Teck, Germany; phone: +49 7021 7298–0; fax: +49 7021 7298–199; email: *info@schempp-hirth.com;* website: *https://www.schempp-hirth.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on February 17, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–04650 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0664; Project Identifier AD–2021–00158–T; Amendment 39–21938; AD 2022–03–21]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. This AD was prompted by significant changes, including new or more restrictive requirements, made to the airworthiness limitations (AWLs) related to fuel tank ignition prevention and the nitrogen generation system. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 11, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 11, 2022.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0664.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0664; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tak Kobayashi, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA; phone: 206–231–3553; email: *Takahisa.Kobayashi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. The NPRM published in the **Federal Register** on October 6, 2021 (86 FR 55538). The NPRM was prompted by significant changes, including new or more restrictive requirements, made to the AWLs related to fuel tank ignition prevention and the nitrogen generation system. In the NPRM, the FAA proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is issuing this AD to address ignition sources inside the fuel tanks and increased flammability exposure of the fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which could result in a fuel

tank explosion and consequent loss of an airplane.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from the Air Line Pilots Association, International (ALPA) and United Airlines who supported the NPRM without change.

The FAA received additional comments from two commenters, including Boeing and American Airlines (AA). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Clarify Applicability

Boeing asked for clarification that the applicability specified in the proposed AD is the same as the effectivity specified in the referenced service information. Boeing stated that the effectivity in the service information mandated by the proposed AD does not apply to Model 787–8 airplanes having line numbers 1 through 5.

The FAA agrees that this AD does not apply to Model 787–8 airplanes having line numbers 1 through 5. The FAA has changed paragraph (c) of this AD accordingly.

Request To Clarify Applicability for AWL No. 57–AWL–13

Boeing and AA asked for clarification that the initial compliance time specified in paragraph (g)(11)(ii)(B) of the proposed AD is applicable only to Model 787 airplanes having line numbers 10, 13, and 15 through 19 inclusive. Boeing stated that AWL No. 57–AWL–13 explicitly identifies those specific line numbers instead of referring to Boeing Service Bulletin B787–81205–SB570030–00. AA stated that for airplanes not included in the effectivity of the referenced service bulletin, operators could misinterpret the actions required by paragraph (g)(11)(ii)(B) for those airplanes, regardless of the applicability specified in AWL No. 57–AWL–13.

The FAA agrees that the initial compliance time specified in paragraph (g)(11)(ii)(B) of this AD is applicable only to Model 787 airplanes having line numbers 10, 13, and 15 through 19 inclusive. The FAA has revised paragraph (g)(11)(ii)(B) accordingly.

Request To Clarify Applicability in Airworthiness Limitation Instruction (ALI)

Boeing asked for clarification that the initial compliance time for performing an inspection in accordance with each ALI task specified in paragraphs (g)(1) through (14) of the proposed AD is applicable only to the airplanes specified in the applicability of each ALI task. Boeing also asked for clarification that the proposed AD does not supersede the applicability of the ALI tasks. Boeing stated that each ALI task has a unique applicability, and some of these tasks only apply to a subset of the airplanes affected by the proposed AD.

The FAA agrees to provide clarification. This AD requires incorporation of the service information into the maintenance or inspection program. After this action is done, compliance with each ALI or critical design configuration control limitation (CDCCL) task incorporated into the maintenance or inspection program is required by the operating rules in 14 CFR 91.403(c) and 43.16. This AD does not change or supersede any ALI or CDCCL task or its applicability. Compliance is based on the applicability specified in each ALI or CDCCL task. Therefore, the FAA has not changed this AD in this regard.

Request To Clarify ''Recent Inspection''

Boeing asked for clarification regarding a recent inspection referenced in the sub-paragraphs to paragraphs (g)(1) through (14) of the proposed AD. Boeing asked that the FAA clarify that a recent inspection performed on an airplane can be the inspection done in accordance with an ALI task of the existing maintenance or inspection program applicable to that airplane. Boeing stated that without clarification, its interpretation is that the initial inspections are required to be performed in accordance with the ALI tasks provided in the service information mandated by paragraph (g) of the AD.

The FAA agrees to provide clarification. The initial compliance time specified in the sub-paragraphs to paragraph (g)(1) through (14) of this AD is the compliance time to perform the first inspection in accordance with each ALI task, after incorporation of the service information into the maintenance or inspection program as required by paragraph (g) of this AD. The ''most recent'' inspection referenced in those paragraphs is the inspection performed in accordance with an ALI task of the operator's existing maintenance or inspection program prior to incorporation of the service information mandated by paragraph (g) of this AD. Certain ALI tasks from the same or earlier revisions of the service information mandated by paragraph (g) of this AD should already exist in the maintenance or inspection program. The requirements of paragraphs (g)(1) through (14) of this AD are intended to address the transition to the ALI tasks after accomplishment of the actions required by paragraph (g) of this AD, without disrupting the existing inspection intervals. Therefore, the FAA has not changed this AD in this regard.

Request To Extend Compliance Time

Boeing asked that the compliance time to revise the maintenance/inspection program required by paragraph (g) of the proposed AD be changed from 180 to 240 days. Boeing stated that the majority of the inspections require entry into a wet fuel cell to access and possibly repair structural sealant applications, at unique facilities and with significant aircraft downtime. Boeing added that an extension of the compliance time to 240 days would allow additional flexibility to operators. Boeing also asked whether an initial inspection done within 180 days after the effective date of the AD must be performed in accordance with the service information mandated by this AD or if it is allowed to be performed under the existing maintenance or inspection program applicable to that airplane. Boeing stated that performing the initial inspection within 180 days after the effective date of the AD seems to conflict with the requirement to revise the maintenance or inspection program within 180 days after the effective date of the AD.

The FAA does not agree to extend the compliance time to revise the maintenance/inspection program required by paragraph (g) of this AD from 180 to 240 days because the FAA has determined that this compliance time is adequate for operators to incorporate maintenance or inspection program changes for their affected fleet. The 180-day compliance time required by paragraph (g) is unrelated to the initial compliance time for performing the inspections in accordance with each ALI task specified in the service information mandated by this AD. Paragraph (g) requires incorporation of the service information into the maintenance or inspection program within 180 days after the effective date of this AD. Once the maintenance/inspection program has been revised, compliance with each ALI or CDCCL task of the maintenance or inspection program is required by the operating rules in 14 CFR 91.403(c) and 43.16. For clarification, the initial compliance time to perform an inspection after incorporation of the service information into the maintenance or inspection program is specified in paragraphs (g)(1) through (14) of this AD. Therefore, the

FAA has not changed this AD in this regard.

Request To Add Revision Level to a Certain Service Bulletin Reference

AA asked that the FAA specify the revision level of Boeing Service Bulletin B787–81205–SB570030–00, referenced in paragraph (g)(11)(ii)(A) of the proposed AD. AA stated that specifying the revision level of the service bulletin will reduce any ambiguity for the requirements associated with that revision level.

The FAA does not agree to include the revision level of Boeing Service Bulletin B787–81205–SB570030–00. Including the revision level of the referenced service bulletin could potentially conflict with another AD that mandates that service bulletin. Boeing Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017, is required by AD 2018–11–13, Amendment 39–19301 (83 FR 25894, June 5, 2018) (AD 2018–11–13). If a later revision of that service bulletin is issued in the future as an (alternative method of compliance) AMOC to AD 2018–11–13, the actions in the later revision can be done equivalent to Issue 001. Specifying ''Issue 001 or later'' in paragraph (g)(11)(ii)(A) of this AD would make it consistent with the requirements in AD 2018–11–13; however, if AD 2018–11–13 must be superseded to mandate a later revision of the service bulletin, this AD would also have to be superseded if the revision level of the service bulletin is specified. Therefore, the FAA has determined that the revision level of the referenced service bulletin will not be included in this AD, and has not changed this AD in this regard.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing 787 Special Compliance Items/Airworthiness Limitations, D011Z009–03–04, dated August 2018. This service information specifies AWLs that include ALIs and CDCCLs related to fuel tank ignition prevention and the nitrogen generation system. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 121 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2022–03–21 The Boeing Company: Amendment 39–21938; Docket No. FAA–2021–0664; Project Identifier AD–2021–00158–T.

(a) Effective Date

This airworthiness directive (AD) is effective April 11, 2022.

(b) Affected ADs

This AD affects AD 2018–11–13, Amendment 39–19301 (83 FR 25894, June 5, 2018) (AD 2018–11–13).

(c) Applicability

This AD applies to The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category, having line numbers (L/Ns) 6 through 871 inclusive, excluding L/N 688; and L/Ns 873, 875, 877, 878, 879, 881, and 883.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by significant changes, including new and more restrictive requirements, made to the airworthiness limitations (AWLs) related to fuel tank ignition prevention and the nitrogen generation system. The FAA is issuing this AD to address ignition sources inside the fuel tanks and increased flammability exposure of the fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which could result in a fuel tank explosion and consequent loss of an airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Maintenance or Inspection Program Revision

Within 180 days after the effective date of this AD, revise the existing maintenance or

inspection program, as applicable, to incorporate the information specified in Sections C through F of Boeing 787 Special Compliance Items/Airworthiness Limitations, D011Z009–03–04, dated August 2018. The initial compliance time for doing the airworthiness limitation instruction (ALI) tasks specified in Sections C through F of Boeing 787 Special Compliance Items/Airworthiness Limitations, D011Z009–03–04, dated August 2018, as applicable for each airplane, is at the times specified in paragraphs (g)(1) through (14) of this AD.

(1) For AWL No. 28–AWL–89, ''Fuel Quantity Data Concentrator (FQDC) Bracket Inspections,'' at the applicable time in paragraph (g)(1)(i) or (ii) of this AD.

(i) For airplanes on which an inspection was performed as specified in AWL No. 28–AWL–89: Within 5 years or 10,000 flight cycles, whichever occur first after the most recent inspection was performed as specified in AWL No. 28–AWL–89.

(ii) For airplanes on which no initial inspection was performed: Within 5 years or 10,000 flight cycles, whichever occurs first after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(2) For AWL No. 57–AWL–01, ''Edge and Fillet Seals at Stringer and Spar Locations (Zone 2),'' at the applicable time in paragraph (g)(2)(i) or (ii) of this AD.

(i) For airplanes on which an inspection was performed as specified in AWL No. 57–AWL–01: Within 12 years or 24,000 flight cycles, whichever occurs first after the most recent inspection was performed as specified in AWL No. 57–AWL–01.

(ii) For airplanes on which no initial inspection was performed: Within 12 years or 24,000 flight cycles, whichever occurs first after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(3) For AWL No. 57–AWL–02, ''Fasteners on Bare Carbon Fiber Reinforced Plastic (CFRP) Stripes,'' at the applicable time in paragraph (g)(3)(i) or (ii) of this AD.

(i) For airplanes on which an inspection was performed as specified in AWL No. 57–AWL–02: Within 12 years or 24,000 flight cycles, whichever occurs first after the most recent inspection was performed as specified in AWL No. 57–AWL–02.

(ii) For airplanes on which no initial inspection was performed: Within 12 years or 24,000 flight cycles, whichever occurs first after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(4) For AWL No. 57–AWL–03, ''Head-in-tank Thin-Sleeved Interference-Fit Fasteners with Heads in the Fuel Tank'' at the applicable time in paragraph (g)(4)(i) or (ii) of this AD.

(i) For airplanes on which an inspection was performed as specified in AWL No. 57–AWL–03: Within 12 years or 24,000 flight cycles, whichever occurs first after the most recent inspection was performed as specified in AWL No. 57–AWL–03.

(ii) For airplanes on which no initial inspection was performed: Within 12 years or 24,000 flight cycles, whichever occurs first after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(5) For AWL No. 57–AWL–05, ''Titanium Collars—BACC30CT Fasteners (Clearance Fit).'' at the applicable time in paragraph (g)(5)(i) or (ii) of this AD.

(i) For airplanes on which an inspection was performed as specified in AWL No. 57–AWL–05: Within 12 years or 24,000 flight cycles, whichever occurs first after the most recent inspection was performed as specified in AWL No. 57–AWL–05.

(ii) For airplanes on which no initial inspection was performed: Within 12 years or 24,000 flight cycles, whichever occurs first after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(6) For AWL No. 57–AWL–06, ''Titanium Collars—BACC30CY Collars (Interference-Fit with Swaged Collars)'' at the applicable time in paragraph (g)(6)(i) or (ii) of this AD.

(i) For airplanes on which an inspection was performed as specified in AWL No. 57–AWL–06: Within 12 years or 24,000 flight cycles, whichever occurs first after the most recent inspection was performed as specified in AWL No. 57–AWL–06.

(ii) For airplanes on which no initial inspection was performed: Within 12 years or 24,000 flight cycles, whichever occurs first after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(7) For AWL No. 57–AWL–07, ''Tension-rated Bolt Locations at Side of Body (SOB) and Nacelle Fittings'' at the applicable time in paragraph (g)(7)(i) or (ii) of this AD.

(i) For airplanes on which an inspection was performed as specified in AWL No. 57–AWL–07: Within 12 years or 24,000 flight cycles, whichever occurs first after the most recent inspection was performed as specified in AWL No. 57–AWL–07.

(ii) For airplanes on which no initial inspection was performed: Within 12 years or 24,000 flight cycles, whichever occurs first after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(8) For AWL No. 57–AWL–08, ''Dielectric Top on Wing Surface,'' at the applicable time in paragraph (g)(8)(i) or (ii) of this AD.

(i) For airplanes on which an inspection was performed as specified in AWL No. 57–AWL–08: Within 6 years or 12,000 flight cycles, whichever occurs first after the most recent inspection was performed as specified in AWL No. 57–AWL–08.

(ii) For airplanes on which no initial inspection was performed: Within 6 years or 12,000 flight cycles, whichever occurs first after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(9) For AWL No. 57–AWL–09, ''Inspection Requirements for Class 1A Seal Installations created as a result of Boeing Material Review Board,'' at the applicable time in paragraph (g)(9)(i) or (ii) of this AD.

(i) For airplanes on which an inspection was performed as specified in AWL No. 57–AWL–09: Within 12 years or 24,000 flight cycles, whichever occurs first after the most recent inspection was performed as specified in AWL No. 57–AWL–09.

(ii) For airplanes on which no initial inspection was performed: Within 12 years or 24,000 flight cycles, whichever occurs first after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(10) For AWL No. 57–AWL–10, ''Inspection Requirements for In-Tank Fasteners near Side of Body (SOB) Rib and between Ribs 7 and 18,'' at the applicable time in paragraph (g)(10)(i) or (ii) of this AD.

(i) For airplanes on which an inspection was performed as specified in AWL No. 57–AWL–10: Within 12 years or 24,000 flight cycles, whichever occurs first after the most recent inspection was performed as specified in AWL No. 57–AWL–10.

(ii) For airplanes on which no initial inspection was performed: Within 12 years or 24,000 flight cycles, whichever occurs first after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(11) For AWL No. 57–AWL–13, ''Inspection Requirements for In-Tank Fasteners and Edge Seal near Disbond Arrestment (DBA) Fastener Installations in Lightning Zone 2,'' at the applicable time in paragraph (g)(11)(i) or (ii) of this AD.

(i) For airplanes on which an inspection was performed as specified in AWL No. 57–AWL–13: Within 12 years or 24,000 flight cycles, whichever occurs first after the most recent inspection was performed as specified in AWL No. 57–AWL–13.

(ii) For airplanes on which no initial inspection was performed: At the applicable time in paragraph (g)(11)(ii)(A) or (B) of this AD.

(A) For airplanes on which Boeing Service Bulletin B787–81205–SB570030–00 is applicable: Within 12 years or 24,000 flight cycles, whichever occurs first after the incorporation of Boeing Service Bulletin B787–81205–SB570030–00.

(B) For airplanes having line numbers 10, 13, and 15 through 19 inclusive: Within 12 years or 24,000 flight cycles, whichever occurs first after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(12) For AWL No. 57–AWL–14, ''Supplemental Inspection Requirements for Pre-cured Sealant Caps, Fillet Seals, and Edge Seals associated Stringer Splice Fitting Installation located at Right Wing Upper Panel Stringer No. 3, just Outboard of the Side of Body Rib,'' at the applicable time in paragraph (g)(12)(i) or (ii) of this AD.

(i) For airplanes on which an inspection was performed as specified in AWL No. 57–AWL–14: Within 12 years or 24,000 flight cycles whichever occurs first after the most recent inspection was performed as specified in AWL No. 57–AWL–14.

(ii) For airplanes on which no initial inspection was performed: Within 12 years or

24,000 flight cycles, whichever occurs first after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(13) For AWL No. 57–AWL–15, ''Inspection Requirements for Pre-cured Sealant Caps, Injection Seals, Fillet Seals, and Edge Seals associated with the Wing Lower Panel Stringer Attachments to the Lower Side of Body (SOB) Chord,'' at the applicable time in paragraph (g)(13)(i) or (ii) of this AD.

(i) For airplanes on which an inspection was performed as specified in AWL No. 57–AWL–15: Within 12 years or 24,000 flight cycles, whichever occurs first after the most recent inspection was performed as specified in AWL No. 57–AWL–15.

(ii) For airplanes on which no initial inspection was performed: Within 12 years or 24,000 flight cycles, whichever occurs first after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(14) For AWL No. 57–AWL–16, ''Supplemental Inspection Requirements for Edge Seals located at Left Wing Upper Panel Stringer No. 19, Between Ribs 8 and 9,'' at the applicable time in paragraph (g)(14)(i) or (ii) of this AD.

(i) For airplanes on which an inspection was performed as specified in AWL No. 57–AWL–16: Within 12 years or 24,000 flight cycles, whichever occurs first after the most recent inspection was performed as specified in AWL No. 57–AWL–16.

(ii) For airplanes on which no initial inspection was performed: Within 12 years or 24,000 flight cycles, whichever occurs first after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(h) No Alternative Actions, Intervals, or Critical Design Configuration Control Limitations

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, or critical design configuration control limitation (CDCCLs) may be used unless the actions, intervals, and CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

(i) Terminating Actions

Accomplishment of the revision required by paragraph (g) of this AD terminates the requirements specified in paragraph (h) of AD 2018–11–13, for Model 787–8 airplanes only.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

For more information about this AD, contact Tak Kobayashi, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA; phone: 206–231–3553; email: *Takahisa.Kobayashi@faa.gov*.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing 787 Special Compliance Items/Airworthiness Limitations, D011Z009–03–04, dated August 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com*.

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued on January 28, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–04662 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0883; Project Identifier AD–2021–00307–T; Amendment 39–21950; AD 2022–04–08]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2020–16–01, which applied to all Airbus SAS Model A318, A319, A320, and A321 series airplanes. AD 2020–16–01 required repetitive cleaning and greasing of affected cargo door seals (both original equipment manufacturer (OEM) and parts manufacturer approval (PMA) parts). This AD was prompted by reports of low halon concentration in the forward and aft cargo compartments due to air leakage through cargo compartment door seals, and the FAA's determination that improved cargo door seals must be installed and that certain flight operations must be limited until the improved cargo door seals are installed. This AD retains certain actions required by AD 2020–16–01 and requires replacing certain forward and aft cargo compartment door seals with new seals and installing a placard on the cargo compartment doors; and for certain airplanes, revising the existing airplane flight manual (AFM) to implement an operational limitation for certain routes. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 11, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 11, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of October 20, 2021 (86 FR 51265, September 15, 2021).

ADDRESSES: For Airbus service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EIAS, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; internet *http://www.airbus.com*. For European Union Aviation Safety Agency

(EASA) material identified in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu*. You may find this material on the EASA website at *https://ad.easa.europa.eu*. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0883.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0883; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: John Marshall, Aerospace Engineer, Airframe Section, FAA, Atlanta ACO Branch, 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5524; fax: 404–474–5606; email: *John.R.Marshall@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2020–16–01, Amendment 39–21185 (85 FR 47013, August 4, 2020) (AD 2020–16–01). AD 2020–16–01 applied to all Airbus SAS Model A318, A319, A320, and A321 series airplanes. AD 2020–16–01 required repetitive cleaning and greasing of affected cargo door seals (both OEM and PMA parts). The NPRM published in the **Federal Register** on October 22, 2021 (86 FR 58597). The NPRM was prompted by reports of low halon concentration in the forward and aft cargo compartments due to air leakage through cargo compartment door seals, and the FAA's determination that additional rulemaking is necessary to require replacement of PMA part number (P/N) D5237106020400S with improved cargo door seals and to limit certain flight operations until the improved cargo door seals are installed. In the NPRM, the FAA proposed to retain certain actions required by AD 2020–16–01; require replacing certain forward and aft cargo compartment door seals with new seals and installing a placard on the cargo compartment doors; and for certain airplanes, implement an operational limitation for certain routes. In the NPRM, the FAA proposed to limit the applicability to airplanes that have certain PMA parts installed because the FAA issued AD 2021–18–04, Amendment 39–21705 (86 FR 51265, September 15, 2021) (AD 2021–18–04) to address the OEM parts.

The FAA is issuing this AD to address low halon concentration. This condition, if not corrected, could affect the fire extinguishing system efficiency in the cargo compartments, possibly resulting in failure of the system to contain a cargo compartment fire.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Air Line Pilots Association, Inc. (ALPA), who supported the NPRM without change, and United Airlines, who also supported the NPRM. The FAA also received additional comments from United Airlines. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request for Clarification if the Proposed AD Replaces or Supersedes a Certain AD

United Airlines requested that the FAA clarify whether the proposed AD would ''supersede'' AD 2020–16–01, as specified in the **SUMMARY** of the NPRM, or would ''replace'' AD 2020–16–01, as specified in paragraph (b) of the proposed AD.

The FAA agrees to clarify. The words supersede and replace have the same meaning and are interchangeable. The word ''replace'' used in paragraph (b) of this AD is required by the Office of the Federal Register. The FAA has not changed this AD in this regard.

Request To Allow Later Revisions of Service Information

United Airlines requested that the FAA allow the use of later approved revisions of Airbus Service Bulletin A320–52–1195, Revision 01, dated December 15, 2020, and Airbus Service Bulletin A320–52–1196, dated October 12, 2020, as acceptable methods of compliance with the requirements of the new proposed AD.

The FAA may not refer to any document that does not yet exist in an AD. In general terms, the FAA is required by Office of the Federal Register (OFR) regulations for approval of materials incorporated by reference, as specified in 1 CFR 51.1(f), to either publish the service document contents as part of the actual AD language; or submit the service document to the OFR for approval as referenced material, in which case the FAA may only refer to such material in the text of an AD. The AD may refer to the service document only if the OFR approved it for incorporation by reference. See 1 CFR part 51.

To allow operators to use later revisions of the referenced document (issued after publication of the AD), either the FAA must revise the AD to reference specific later revisions, or operators must request approval to use later revisions as an alternative method of compliance with this AD under the provisions of paragraph (m) of this AD.

Inquiry Regarding Affected AD Number in AD 2018–18–04

United Airlines stated that paragraph (b) of AD 2021–18–04, ''Affected ADs,'' refers to AD 2020–16–01. United Airlines inquired whether the FAA is planning to revise the ''Affected ADs'' paragraph of AD 2021–18–04 with the new proposed AD number that is superseding or replacing AD 2020–16–01.

The FAA agrees to clarify. AD 2021–18–04 applies only to OEM parts and affects AD 2020–16–01 because AD 2020–16–01 applied to both OEM parts and PMA parts. This AD applies only to PMA parts and supersedes AD 2020–16–01. The terminating actions for cleaning and greasing as required by AD 2021–18–04, AD 2020–16–01, and this new AD (that will replace AD 2020–16–01), are the same: Replace the seals with new seal part numbers as specified in the service information. However, AD 2021–18–04 does not affect this AD as each AD is independent of each other. It is not necessary to change paragraph (b) of AD 2021–18–04 to refer to this AD because this AD does not contain any requirements for OEM parts.

Clarification of Operational Limitation

Paragraph (j) of the proposed AD included an operational limitation and specified that amending the existing AFM was one method to comply with the requirement. The FAA has determined that revising the existing AFM is the method most operators would use to comply with the requirement. In addition, the FAA determined the AFM revision should refer to the operational limitation language as specified in a figure for clarity. The FAA has revised paragraph

(j) of this AD to require revising the existing AFM to include an operational limitation specified in figure 1 to paragraph (j) of this AD. Operators may request an alternative method of compliance using the procedures specified in paragraph (m) of this AD if they have alternative methods to comply with the operational limitations that provide an equivalent level of safety.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Airbus Service Bulletin A320–52–1195, Revision 01, dated December 15, 2020, and Airbus Service Bulletin A320–52–1196, dated October 12, 2020. This service information specifies procedures for replacing the forward and aft cargo compartment door seals with new seals, among other actions, and installing a placard on the cargo compartment doors. These documents are distinct since they apply to different airplane models.

This AD also requires European Union Aviation Safety Agency (EASA) AD 2021–0049, dated February 18, 2021, which the Director of the Federal Register approved for incorporation by reference as of October 20, 2021 (86 FR 51265, September 15, 2021).

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 1,768 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Cleaning and greasing (retained actions from AD 2020–16–01).	1 work-hour × $85 per hour = $85, per cleaning/greasing cycle.	$0	$85, per cleaning/greasing cycle.	$150,280, per cleaning/greasing cycle.
Cargo door seal replacement and placard installation (new action).	8 work-hours × $85 per hour = $680.	Up to $5,680	Up to $6,360	Up to $11,244,480.
AFM revision (new action)	1 work-hour × $85 per hour = $85.	$0	$85	Up to $150,280 (Group 3 airplanes only).

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2020–16–01, Amendment 39–21185 (85 FR 47013, August 4, 2020); and

■ b. Adding the following new AD:

2022–04–08 Airbus SAS: Amendment 39–21950; Docket No. FAA–2021–0883; Project Identifier AD–2021–00307–T.

(a) Effective Date

This airworthiness directive (AD) is effective April 11, 2022.

(b) Affected ADs

This AD replaces AD 2020–16–01, Amendment 39–21185 (85 FR 47013, August 4, 2020) (AD 2020–16–01).

(c) Applicability

This AD applies to the Airbus SAS airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category, equipped with any parts manufacturer approval (PMA) part approved for the type design forward and aft cargo compartment door seal part number (P/N) D5237106020400, including but not limited to PMA P/N D5237106020400S.

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes.

(3) Model A320–211, –212, –214, –215, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –251NX,

–252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 26, Fire protection; 52, Doors.

(e) Unsafe Condition

This AD was prompted by reports of low halon concentration in the forward and aft cargo compartments due to air leakage through cargo compartment door seals, and the certification of improved cargo door seals. The FAA is issuing this AD to address low halon concentration. This condition, if not corrected, could affect the fire extinguishing system efficiency in the cargo compartments, possibly resulting in failure of the system to contain a cargo compartment fire.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Definition

For the purposes of this AD, a ''PMA part'' is defined as any PMA part approved for the type design forward and aft cargo compartment door seal P/N D5237106020400, including but not limited to PMA P/N D5237106020400S.

(h) Retained Cleaning and Greasing, With Revised Compliance Language

This paragraph restates the requirements of paragraph (g) of AD 2020–16–01, with revised compliance language. Within 6 months after the airplane date of manufacture, or 3 months after August 19, 2020 (the effective date of AD 2020–16–01), whichever occurs later, and, thereafter, at intervals not exceeding 6 months, clean and grease each PMA part, in accordance with the instructions specified in paragraph (1) or (2) of European Union Aviation Safety Agency (EASA) AD 2021–0049, dated February 18, 2021. Accomplishing the actions required by paragraph (i) of this AD on an airplane terminates the actions required by this paragraph for that airplane only, and for the specific cargo door locations with PMA parts only.

(i) Modification

Within 96 months after the effective date of this AD, replace the seals of the PMA part with new seals and install a placard on the cargo compartment doors, in accordance with the method specified in paragraph (i)(1) or (2) of this AD. Accomplishing the actions required by this paragraph terminates the actions required by paragraph (h) of this AD for that airplane only, and for the specific cargo door locations where PMA parts were replaced only.

(1) Do the actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–52–1195, Revision 01, dated December 15, 2020, or Airbus Service Bulletin A320–52–1196, dated October 12, 2020, as applicable, except where the procedures refer to P/N D5237106020400, those procedures must be used for the PMA part.

(2) Do the actions in accordance with the procedures specified in paragraph (m)(1) of this AD.

(j) Airplane Flight Manual (AFM) Revision—Operational Limitation

For Model A319 airplanes on which Airbus mod 26402, mod 34881 or mod 34882 has been embodied in production, or Airbus Service Bulletin A320–26–1066 or Airbus Service Bulletin A320–26–1076 has been embodied in service: Within 9 months or 1,600 flight hours after the effective date of this AD, whichever occurs later, revise the Limitations section of the existing AFM to incorporate the information specified in Figure 1 to paragraph (j) of this AD. This may be done by inserting a copy of figure 1 to paragraph (j) of this AD into the Limitations Section of the existing AFM. Accomplishing the modification required by paragraph (i) of this AD terminates the requirements of this paragraph, and after the modification has been done, the AFM limitation required by this paragraph must be removed from the existing AFM before further flight after the modification.

Figure 1 to paragraph (j) – *AFM Limitation*

(Required by AD 2022-04-08)

Operational Limitation: Routing Having a Certain Diversion Time

Do not operate an airplane over a route having a point with a diversion time of more than 60 minutes.

(k) Credit for Previous Actions

(1) This paragraph provides credit for the actions specified in paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Airbus Technical Adaption 80774334/003/2020, Issue 1, dated April 1, 2020.

(2) This paragraph provides credit for the actions specified in paragraph (h) of this AD, if those actions were performed before the effective date of this AD using EASA AD 2020–0133, dated June 10, 2020 (which was incorporated by reference in AD 2020–16–01).

(3) This paragraph provides credit for the actions specified in paragraph (i) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A320–52–1195, dated October 12, 2020.

(l) Parts Installation Prohibition

Do not install a PMA part, or a door equipped with a PMA part, on any airplane, as required by paragraph (l)(1) or (2) of this AD, as applicable.

(1) For airplanes with a PMA part installed as of the effective date of this AD: After modification of the airplane as required by paragraph (i) of this AD.

(2) For airplanes that do not have a PMA part installed as of the effective date of this AD: As of the effective date of this AD.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) Contacting the Manufacturer: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Atlanta ACO Branch, FAA.

(4) Required for compliance (RC): Except as specified by paragraph (m)(3) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(n) Related Information

(1) For more information about this AD, contact John Marshall, Aerospace Engineer, Airframe Section, FAA, Atlanta ACO Branch, 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5524; fax: 404–474–5606; email: *John.R.Marshall@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (o)(5), (6), and (7) of this AD.

(o) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on April 11, 2022.

(i) Airbus Service Bulletin A320–52–1195, Revision 01, dated December 15, 2020.

(ii) Airbus Service Bulletin A320–52–1196, dated October 12, 2020.

(4) The following service information was approved for IBR on October 20, 2021 (86 FR 51265, September 15, 2021).

(i) European Union Aviation Safety Agency (EASA) AD 2021–0049, dated February 18, 2021.

(ii) [Reserved]

(5) For Airbus service information identified in this AD, contact Airbus SAS, Airworthiness Office—EIAS, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.*

(6) For EASA AD 2021–0049, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(7) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(8) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov*, or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on February 11, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–04665 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1059; Project Identifier MCAI–2021–00797–T; Amendment 39–21958; AD 2022–05–07]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by a report that in the event of a specific discrete wire failure, the landing gear extension and retraction system (LGERS) may not be able to complete landing gear retraction when commanded by moving the landing gear lever to the UP position. This AD requires revising the operator's existing FAA-approved minimum equipment list (MEL) for the LGERS, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 11, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 11, 2022.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1059; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email *dan.rodina@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0161, dated July 6, 2021 (EASA AD 2021–0161) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A350–941 and –1041 airplanes. The NPRM was published in the **Federal Register** on December 17, 2021 (86 FR 71587). The NPRM was prompted by a report that in the event of a specific discrete wire failure, the LGERS may not be able to complete landing gear retraction when commanded by moving the landing gear lever to the UP position. The NPRM proposed to require revising the operator's existing FAA-approved MEL for the LGERS, as specified in EASA AD 2021–0161.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from The Air Line Pilots Association, International (ALPA), who supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0161 describes procedures for revising the LGERS for master minimum equipment list

(MMEL) item 32–31–01. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 19 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = $170	$0	$170	$3,230

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2022–05–07 Airbus SAS: Amendment 39–21958; Docket No. FAA–2021–1059; Project Identifier MCAI–2021–00797–T.

(a) Effective Date

This airworthiness directive (AD) is effective April 11, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Unsafe Condition

This AD was prompted by a report that in the event of a specific discrete wire failure, the landing gear extension and retraction system (LGERS) may not be able to complete landing gear retraction when commanded by moving the landing gear lever to the UP position. The FAA is issuing this AD to address this condition, which, if one engine is inoperative at takeoff, could lead to a reduction of the flight path clearance and possibly result in damage to the airplane and injury to occupants.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0161, dated July 6, 2021 (EASA AD 2021–0161).

(h) Exceptions to EASA AD 2021–0161

(1) Where EASA AD 2021–0161 refers to its effective date, this AD requires using the effective date of this AD.

(2) Whereas paragraph (1) of EASA AD 2021–0161 specifies to ''inform all flight crews, and, thereafter, operate the aeroplane accordingly,'' this AD does not require those actions as those actions are already required by existing FAA operating regulations.

(3) The ''Remarks'' section of EASA AD 2021–0161 does not apply to this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or

changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email *dan.rodina@faa.gov.*

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2021–0161, dated July 6, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0161, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on February 17, 2022.

Derek Morgan,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–04666 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0699; Project Identifier AD–2020–01685–E; Amendment 39–21959; AD 2022–05–08]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain General Electric Company (GE) CF34–10E model turbofan engines. This AD was prompted by a manufacturer investigation that revealed Teflon material in the A-sump oil strainer (strainer assembly) screen after several reports of in-flight shutdowns (IFSDs) and unscheduled engine removals (UERs). This AD requires initial and repetitive visual inspections of the strainer assembly screen. As a terminating action to the initial and repetitive visual inspections, this AD requires the replacement of the stationary oil seal at the No. 1 forward bearing. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 11, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 11, 2022.

ADDRESSES: For service information identified in this final rule, contact General Electric Company, GE Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ge.com;* website: *https://www.ge.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0699.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0699; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7132; fax: (781) 238–7199; email: *Scott.M.Stevenson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain GE CF34–10E2A1, CF34–10E5, CF34–10E5A1, CF34–10E6, CF34–10E6A1, CF34–10E7, and CF34–10E7–B (CF34–10E) model turbofan engines. The NPRM published in the **Federal Register** on August 24, 2021 (86 FR 47264). The NPRM was prompted by a manufacturer investigation that revealed Teflon material in the strainer assembly screen after several reports of IFSDs and UERs on airplanes operating with GE CF34–10E5, CF34–10E5A1, CF34–10E6, and CF34–10E7 model turbofan engines. After investigation, the manufacturer determined that the failures were the result of Teflon oil seals disbonding from the aluminum housing when used with either high thermal stability (HTS) or high performance capability (HPC) oils. The stationary oil seal deterioration resulted from the failure of the bonding adhesive, known as EA9658, which does not have the high temperature capabilities as designed and is negatively impacted by the use of HTS or HPC oils. This deterioration results in Teflon particles collecting in the strainer assembly. The manufacturer determined that CF34–10E2A1, CF34–10E6A1, and CF34–10E7–B model turbofan engines are subject to the same unsafe condition. In the NPRM, the FAA proposed to require initial and repetitive visual inspections of the strainer assembly screen. As a terminating action to the initial and repetitive visual inspections, the FAA proposed to require the replacement of the stationary oil seal, part number (P/N) B1316–00453 or P/N B1316–01274, installed at the No. 1 forward bearing. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from four commenters. The commenters were the Air Line Pilots Association, International (ALPA), GE, Helvetic Airways AG (Helvetic Airways), and JetBlue Airways (JetBlue). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Change the Applicability

GE, Helvetic Airways, and JetBlue requested that the FAA change paragraph (c), Applicability, of this AD to align with GE CF34–10E Service Bulletin (SB) 72–0365 R04, dated April 27, 2021 (GE CF34–10E SB 72–0365 R04). GE specifically requested that the FAA include language that specifies the timeframe (after September 2014) to

identify which stationary oil seals have adhesive EA9658 and are subject to the disbonding failure mode. GE and JetBlue noted that paragraph (c), Applicability, of the NPRM differs from GE CF34–10E SB 72–0365 R04, as it does not identify stationary oil seal, P/N B1316–00453 or P/N B1316–01274, replaced or repaired after September 2014, which is when the EA9658 adhesive was introduced to the field. GE and JetBlue commented that the NPRM, as written, would apply to all stationary oil seals, regardless of when they were manufactured or repaired. Helvetic Airways noted that paragraph (c), Applicability, of the NPRM does not account for the population of affected stationary oil seals, as identified in paragraph A., Effectivity, of GE CF34–10E SB 72–0365 R04.

In response to these comments, the FAA updated paragraph (c), Applicability, of this AD to specify this AD applies to GE CF34–10E model turbofan engines with a stationary oil seal, P/N B1316–00453 or P/N B1316–01274, installed at the No. 1 forward bearing, that has been repaired, overhauled, or entered into service after August 2014, and used HTS oil or HPC oil for 56 flight hours or more during the life of the stationary oil seal.

Request To Clarify the Applicability by Engine Serial Number

GE suggested that the FAA revise paragraph (c), Applicability, of this AD to include the list of engine serial numbers (ESNs), 424714 through 424892, as an additional but alternate approach to identify affected CF34–10E engines.

The FAA notes that the list of ESNs includes those engines that were produced with the affected stationary oil seal. Those new-make engines are included in paragraph (c), Applicability, of this AD by referencing the stationary oil seal, P/N B1316–00453 or P/N B1316–01274, which entered service after August 2014. The FAA did not change this AD as a result of this comment.

Request To Update Compliance Time

GE requested that the FAA update paragraph (g)(1)(i) of the NPRM to remove ''at the next engine shop visit.'' GE reasoned that the intent of GE CF34–10E SB 72–0365 R04 is to perform the inspection on-wing without removing the engine.

In response to GE's comment, the FAA has removed ''at the next engine shop visit'' and combined paragraphs (g)(1)(i) and (ii) of the NPRM into one paragraph, (g)(1) of this AD, to eliminate reference to an engine shop visit.

Request To Update Definition

GE requested that the FAA update paragraph (i), Definition, of this AD to indicate that a part eligible for installation is a stationary oil seal with a P/N other than P/N B1316–00453 or P/N B1316–001274 and with FM57 adhesive. GE reasoned that there could be room for interpretation as to what P/N other than B1316–00453 and P/N B1316–01274 could be in the future, especially if the manufacturer redesigns the stationary oil seal with a new adhesive and a new failure mode is introduced.

The FAA disagrees with updating the definition of a part eligible for installation in paragraph (i) of this AD to include a reference to FM57 adhesive. The FAA cannot define a part eligible for installation based on future redesigns by the manufacturer. The FAA may consider future rulemaking if a new failure mode is discovered. The FAA did not change this AD as a result of this comment.

Request To Update Service Information or Allow for Credit

GE requested that the FAA revise paragraph (g)(1) of this AD to reference GE CF34–10E SB 72–0365 R04, R03, and R02. GE commented that paragraph (g)(1) of the NPRM references GE CF34–10E SB 72–0365 R04 to comply with the AD; however, some operators may have complied with earlier revisions of the service bulletin. GE reasoned that paragraph 3.A.(1)(d) of GE CF34–10E SB 72–0365 R04, R03, R02 are identical.

JetBlue requested that the FAA update this AD to allow credit for inspections performed using previous revisions of GE CF34–10E SB 72–0365. JetBlue commented that the NPRM specifically references GE CF34–10E SB 72–0365 R04. JetBlue reasoned that, in addition to R04 of GE CF34–10E SB 72–0365, they performed repetitive inspections in accordance with R03 and R02.

This AD does not mandate that operators use GE CF34–10E SB 72–0365 R04 to perform the visual inspections. GE CF34–10E SB 72–0365 R04 is referenced in paragraph (g), Required Actions, of this AD as guidance to perform the visual inspections of the strainer assembly screen. Therefore, if operators used earlier versions of the service information to perform the visual inspections, they would be in compliance with the requirements in paragraph (g) of this AD. Regarding the comment requesting that this AD include credit for pervious actions using earlier versions of the service information, the FAA notes that this change is unnecessary. Paragraph (f) of this AD mandates compliance with the required actions, unless already done. The FAA did not change this AD as a result of this comment.

Support for the AD

ALPA expressed support for the AD as written.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE CF34–10E Service Bulletin 72–0365 R04, dated April 27, 2021. This service information specifies procedures for performing a visual inspection and a borescope inspection of the strainer assembly for Teflon particles. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 46 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect the strainer assembly screen	1 work-hour × $85 per hour = $85	$0	$85	$3,910
Replace the stationary oil seal	2 work-hours × $85 per hour = $170	8,628	8,798	404,708

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2022–05–08 General Electric Company: Amendment 39–21959; Docket No. FAA–2021–0699; Project Identifier AD–2020–01685–E.

(a) Effective Date

This airworthiness directive (AD) is effective April 11, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) CF34–10E2A1, CF34–10E5, CF34–10E5A1, CF34–10E6, CF34–10E6A1, CF34–10E7, and CF34–10E7–B model turbofan engines with a stationary oil seal, part number (P/N) B1316–00453 or P/N B1316–01274, installed at the No. 1 forward bearing, that:

(1) Has been repaired, overhauled, or entered into service after August 2014; and

(2) Has used high thermal stability oil or high performance capability oil for 56 flight hours (FHs) or more during the life of the stationary oil seal.

(d) Subject

Joint Aircraft System Component (JASC) Code 7261, Turbine Engine Oil System.

(e) Unsafe Condition

This AD was prompted by investigation by the manufacturer that revealed Teflon material in the A-sump oil strainer (strainer assembly) screen after several reports of in-flight shutdowns and unscheduled engine removals. The FAA is issuing this AD to prevent failure of the stationary oil seal at the No. 1 forward bearing. The unsafe condition, if not addressed, could result in failure of the engine, in-flight shutdown, and loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) Before the stationary oil seal accumulates 100 FHs after the effective date of this AD, or within 100 FHs of the stationary oil seal accumulating 2,250 FHs since new, whichever occurs later, perform an initial visual inspection of the strainer assembly screen for Teflon material. Guidance on performing the visual inspection of the strainer assembly screen can be found in the Accomplishment Instructions, paragraph 3.A.(1)(d), of GE CF34–10E Service Bulletin (SB) 72–0365 R04, dated April 27, 2021.

(2) Thereafter, within the following compliance times, repeat the visual inspection of the strainer assembly screen required by paragraph (g)(1) of this AD:

(i) For an affected stationary oil seal having accumulated 2,250 to 7,000 FHs since new at the time of the last inspection, repeat the visual inspection every 750 FHs.

(ii) For an affected stationary oil seal having accumulated 7,001 to 10,000 FHs since new at the time of the last inspection, repeat the visual inspection every 375 FHs.

(iii) For an affected stationary oil seal having accumulated more than 10,000 FHs since new at the time of the last inspection, repeat the visual inspection every 100 FHs.

(3) If, based on any inspection required by paragraph (g)(1) or (2) of this AD, Teflon material is found in the strainer assembly screen, before further flight, remove the stationary oil seal at the No. 1 forward bearing from service and replace it with a part eligible for installation.

(4) Before an affected stationary oil seal accumulates 10,000 FHs since new or within 500 FHs after the effective date of this AD, whichever occurs later, remove the stationary oil seal at the No. 1 forward bearing from service and replace it with a part eligible for installation.

(h) Terminating Action

Removal of the stationary oil seal, P/N B1316–00453 or P/N B1316–01274, installed at the No. 1 forward bearing, and replacement with a part eligible for installation, constitutes terminating action for the initial and repetitive inspections required by paragraphs (g)(1) and (2) of this AD.

(i) Definition

For the purpose of this AD, a ''part eligible for installation'' is a stationary oil seal that has a P/N other than P/N B1316–00453 or P/N B1316–01274.

(j) Special Flight Permit

A special flight permit may be issued in accordance with 14 CFR 21.197 and 21.199 to permit a non-revenue ferry flight, consisting of no more than five cycles, to a location where the engine can be removed from service for operators who are prohibited from further flight due to Teflon material found in the strainer assembly screen if operators perform the actions in Appendix—A, paragraph 4.A., of GE CF34–10E SB 72–0365 R04, dated April 27, 2021, and the engine still meets the criteria in paragraph 4.A. for flying an additional five cycles. This ferry flight must be performed with only essential flight crew, without passengers, and involve non-ETOPS operations.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (l) of this AD. You may email your request to *ANE-AD-AMOC@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(l) Related Information

For more information about this AD, contact Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781)

238–7132; fax: (781) 238–7199; email: *Scott.M.Stevenson@faa.gov.*

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) GE CF34–10E Service Bulletin 72–0365 R04, dated April 27, 2021.

(ii) [Reserved]

(3) For service information identified in this AD, contact General Electric Company, GE Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ge.com;* website: *https://www.ge.com.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on February 18, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–04694 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–1053; Airspace Docket No. 21–ASO–37]

RIN 2120–AA66

Amendment of Class E Airspace; Griffin, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet above the surface for Griffin-Spalding County Airport, Griffin, GA. This action removes the city associated with the Griffin-Spalding County Airport's legal description. In addition, this action increases the airport's radius, and increases the extensions to the northwest and to the southeast of the airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Effective 0901 UTC, May 19, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: John Goodson, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone (404) 305–5966.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace extending upward from 700 feet above the surface to support IFR operations in Griffin, GA.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR, 71186, December 15, 2021) for Docket No. FAA–2021–1053 to amend Class E airspace extending upward from 700 feet above the surface for Griffin, GA.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in Paragraph 6005 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace listed in this document will be published subsequently in FAA Order JO 7400.11.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic routes, and reporting points.

The Rule

The FAA amends 14 CFR part 71 by amending Class E airspace extending upward from 700 feet above the surface at Griffin-Spalding County Airport, Griffin, GA. This action removes the city associated with the Griffin-Spalding County Airport legal description to comply with FAA Order JO 7400.2. In addition, this action increases the radius of the airport to 8.7 miles (formerly 6.3 miles), and increases the extensions off the airport's 137° bearing and 317° bearings to 10.5 miles (formerly 10.3 miles).

Class E airspace designations are published in Paragraph 6005 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is minimal. Since this is a

routine matter that only affects air traffic procedures an air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order JO 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO GA E5 Griffin, GA [Amended]

Griffin-Spalding County Airport, GA
(Lat. 33°13′37″ N, long. 84°16′30″ W)

That airspace extending upward from 700 feet above the surface within a 8.7-mile radius of the Griffin-Spalding County Airport, and within 2 miles either side of a 137° bearing from the airport, extending from the 8.7-mile radius to 10.5 miles southeast of the airport, and within 2 miles either side of a 317° bearing from the airport, extending from the 8.7-mile radius to 10.5 miles northwest of the airport.

Issued in College Park, Georgia, on March 1, 2022.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2022–04707 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1989

[Docket Number: OSHA–2020–0006]

RIN 1218–AD27

Procedures for the Handling of Retaliation Complaints Under the Taxpayer First Act (TFA)

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Interim final rule; request for comments.

SUMMARY: This document provides the interim final text of regulations governing the anti-retaliation (employee protection or whistleblower) provision of the Taxpayer First Act (TFA or the Act). This rule establishes procedures and timeframes for the handling of retaliation complaints under TFA, including procedures and timeframes for employee complaints to the Occupational Safety and Health Administration (OSHA), investigations by OSHA, appeals of OSHA determinations to an administrative law judge (ALJ) for a hearing de novo, hearings by ALJs, review of ALJ decisions by the Administrative Review Board (ARB) (acting on behalf of the Secretary of Labor), and judicial review of the Secretary's final decision. It also sets forth the Secretary's interpretations of the TFA anti-retaliation provision on certain matters.

DATES:

Effective date: This interim final rule is effective on March 7, 2022.

Comments due date: Comments and additional materials must be submitted (post-marked, sent or received) by May 6, 2022.

ADDRESSES: Submit comments by any of the following methods:

Electronically: You may submit comments and attachments electronically at: *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (OSHA–2020–0006). OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates. For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Extension of comment period: Submit requests for an extension of the comment period on or before March 22, 2022 to the Directorate of Whistleblower Protection Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–4618, Washington, DC 20210, or by fax to (202) 693–2199 or by email to *OSHA.DWPP@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Meghan Smith, Program Analyst, Directorate of Whistleblower Protection Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–4618, 200 Constitution Avenue NW, Washington, DC 20210; telephone (202) 693–2199 (this is not a toll-free number) or email: *OSHA.DWPP@dol.gov.* This **Federal Register** publication is available in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Background

The Taxpayer First Act (TFA or Act), Public Law 116–25, 133 Stat. 981, was enacted on July 1, 2019. Section 1405(b) of the Act, codified at 26 U.S.C. 7623(d) and referred to throughout these interim final rules as the TFA ''anti-retaliation,'' ''employee protection,'' or ''whistleblower'' provision, prohibits retaliation by an employer, or any officer, employee, contractor, subcontractor, or agent of such employer against an employee in the

terms and conditions of employment in reprisal for the employee having engaged in protected activity. Protected activity under TFA includes any lawful act done by an employee to provide information, cause information to be provided, or otherwise assist in an investigation regarding underpayment of tax or conduct which the employee reasonably believes constitutes a violation of the internal revenue laws or any provision of Federal law relating to tax fraud. To be protected, the information or assistance must be provided to one of the persons or entities listed in the statute, which include the Internal Revenue Service (IRS), the Secretary of the Treasury, the Treasury Inspector General for Tax Administration, the Comptroller General of the United States, the Department of Justice, the United States Congress, a person with supervisory authority over the employee, or any other person working for the employer who has the authority to investigate, discover, or terminate misconduct. The Act also protects employees from retaliation in reprisal for any lawful act done to testify, participate in, or otherwise assist in any administrative or judicial action taken by the IRS relating to an alleged underpayment of tax or any violation of the internal revenue laws or any provision of Federal law relating to tax fraud. These interim final rules establish procedures for the handling of retaliation complaints under the Act.

II. Summary of Statutory Procedures

TFA incorporates the rules, procedures, and burdens of proof set forth in the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21), 49 U.S.C. 42121(b), with some exceptions. Under TFA, a person who believes that they have been discharged or otherwise retaliated against in violation of the Act (complainant) may file a complaint with the Secretary of Labor (Secretary) within 180 days of the alleged retaliation. Upon receipt of the complaint, the Secretary must provide written notice to the person or persons named in the complaint alleged to have violated the Act (respondent) and to the complainant's employer (which in most cases will be the respondent) of the filing of the complaint, the allegations contained in the complaint, the substance of the evidence supporting the complaint, and the rights afforded the respondent throughout the investigation. The Secretary must then conduct an investigation, within 60 days of receipt of the complaint, after affording the respondent an opportunity to submit a written response and to meet with the investigator to present statements from witnesses.

The Act provides that the Secretary may conduct an investigation only if the complainant has made a prima facie showing that the protected activity was a contributing factor in the adverse action alleged in the complaint and the respondent has not demonstrated, through clear and convincing evidence, that it would have taken the same adverse action in the absence of that activity. (See § 1989.104 for a summary of the investigation process.) OSHA interprets the prima facie case requirement as allowing the complainant to meet this burden through the complaint as supplemented by interviews of the complainant.

After investigating a complaint, the Secretary will issue written findings. If, as a result of the investigation, the Secretary finds there is reasonable cause to believe that retaliation has occurred, the Secretary must notify the complainant and respondent of those findings, and issue a preliminary order providing all relief necessary to make the complainant whole, including, where appropriate: Reinstatement with the same seniority status that the complainant would have had but for the retaliation; the sum of 200 percent of the amount of back pay and 100 percent of all lost benefits, with interest; and compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees.

The complainant and the respondent then have 30 days after the date of receipt of the Secretary's notification in which to file objections to the findings and/or preliminary order and request a hearing before an Administrative Law Judge (ALJ). The filing of objections will not stay any reinstatement order. However, under OSHA's regulations, the filing of objections will stay any other remedy in the preliminary order. If a hearing before an ALJ is not requested within 30 days, the preliminary order becomes final and is not subject to judicial review.

If a hearing is held, the Act requires the hearing be conducted ''expeditiously.'' The Secretary then has 120 days after the conclusion of any hearing to issue a final order, which may provide appropriate relief or deny the complaint. Until the Secretary's final order is issued, the Secretary, the complainant, and the respondent may enter into a settlement agreement that terminates the proceeding. Where the Secretary has determined that a violation has occurred, the Secretary will order all relief necessary to make the complainant whole, including, where appropriate, reinstatement with the same seniority status that the complainant would have had, but for the retaliation; the sum of 200 percent of the amount of back pay and 100 percent of all lost benefits, with interest; and compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees. The Secretary also may award a prevailing employer reasonable attorney fees, not exceeding $1,000, if the Secretary finds that the complaint is frivolous or has been brought in bad faith. Within 60 days of the issuance of the final order, any person adversely affected or aggrieved by the Secretary's final order may file an appeal with the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit where the complainant resided on the date of the violation.

The Act permits the employee to bring an action for de novo review of a TFA retaliation claim in the appropriate United States district court in the event that the Secretary has not issued a final decision within 180 days after the filing of the complaint. The provision provides that the court will have jurisdiction over the action without regard to the amount in controversy and that either party is entitled to request a trial by jury. The Act also states that the rights and remedies provided in the TFA anti-retaliation provision may not be waived by any agreement, policy form, or condition of employment, including by a predispute arbitration agreement. No predispute arbitration agreement is valid or enforceable, if the agreement requires arbitration of a dispute arising under the TFA anti-retaliation provision. Finally, under the Act, nothing in the TFA anti-retaliation provision shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.

III. Summary and Discussion of Regulatory Provisions

The regulatory provisions in this part have been written and organized to be consistent with other whistleblower regulations promulgated by OSHA to the extent possible within the bounds of the statutory language of the Act. Responsibility for receiving and investigating complaints under the Act has been delegated to the Assistant Secretary for Occupational Safety and Health (Assistant Secretary) by Secretary of Labor's Order No. 08–2020 (May 15, 2020), 85 FR 58393 (September

18, 2020). Hearings on determinations by the Assistant Secretary are conducted by the Office of Administrative Law Judges, and appeals from decisions by ALJs are decided by the ARB. See Secretary of Labor's Order 01–2020 (Feb. 21, 2020), 85 FR 13024–01 (Mar. 6, 2020) (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board).

Subpart A—Complaints, Investigations, Findings, and Preliminary Orders

Section 1989.100 Purpose and Scope

This section describes the purpose of the regulations implementing the anti-retaliation provisions of TFA and provides an overview of the procedures covered by these regulations.

Section 1989.101 Definitions

This section includes the general definitions of certain terms used in § 1405(b) of TFA, 26 U.S.C. 7623(d), which are applicable to the Act's anti-retaliation provision. Consistent with the approach that OSHA has taken in implementing other whistleblower protection provisions and with applicable ARB case law, the interim final rule defines ''employee'' as ''an individual presently or formerly working for, an individual applying to work for, or an individual whose employment could be affected by, another person.'' See, *e.g.,* 29 CFR 1979.101 (AIR21 definition of employee); 29 CFR 1980.101(g) (Sarbanes-Oxley Act of 2002 (SOX) definition of employee). In OSHA's view, consistent with TFA's language protecting employees from retaliation for providing information regarding ''any conduct which the employee reasonably believes constitutes a violation of the internal revenue laws,'' the definition of ''employee'' in the interim final rule encompasses individuals who allege that they are employees, can show some evidence that the respondent exercises control over the terms and conditions of their employment or other factors tending to demonstrate that an employer-employee relationship exists, and allege that they have suffered retaliation for having reported that their employers have violated tax laws by failing or refusing to make required withholdings, deductions, and/or contributions on their behalf. See *Green* v. *OPCON, Inc.,* ARB Case No. 2018–0007, 2020 WL 2319031, at *3 (Apr. 9, 2020) (explaining the ARB's case law applying a ''right-to-control'' test and the common law test in *Nationwide Mutual Insurance Co.* v. *Darden,* 503 U.S. 318, 322–23 (1992)).

The interim final rule defines ''person'' as ''an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, or estate,'' based on the definition found in the Internal Revenue Code. See 26 U.S.C. 7701(a)(1).

Section 1989.102 Obligations and Prohibited Acts

This section describes the activities that are protected under the Act and the conduct that is prohibited in response to any protected activities. The Act prohibits an employer, or any officer, employee, contractor, subcontractor, or agent of such employer from discharging, demoting, suspending, threatening, harassing or in any other manner retaliating against an employee in the terms and conditions of employment in reprisal for the employee having engaged in protected activity. Protected activity under TFA includes any lawful act by an employee to provide information, cause information to be provided, or otherwise assist in an investigation regarding underpayment of tax or conduct which the employee reasonably believes constitutes a violation of the internal revenue laws or any provision of Federal law relating to tax fraud. To be protected, the information or assistance must be provided to one of the persons or entities listed in the statute, which include the IRS, the Secretary of the Treasury, the Treasury Inspector General for Tax Administration, the Comptroller General of the United States, the Department of Justice, the United States Congress, a person with supervisory authority over the employee, or any other person working for the employer who has the authority to investigate, discover, or terminate misconduct. The Act also protects employees from discharge or other actions in reprisal for any lawful act done to testify, participate in, or otherwise assist in any administrative or judicial action taken by the IRS relating to an alleged underpayment of tax or any violation of the internal revenue laws or any provision of Federal law relating to tax fraud. More information regarding Federal tax laws and the IRS's regulations can be found at *www.IRS.gov.*

Under the Act, an employee who provides information, causes information to be provided, or assists in an investigation is protected as long as the employee reasonably believes that the conduct at issue violates internal revenue laws or any provision of Federal law relating to tax fraud. To have a reasonable belief that there is a violation of relevant law, the employee must subjectively believe that the conduct is a violation and that belief must be objectively reasonable. See, *e.g., Rhinehimer* v. *U.S. Bancorp. Invs., Inc.,* 787 F.3d 797, 811 (6th Cir. 2015) (discussing the reasonable belief standard under analogous language in the SOX whistleblower provision, 18 U.S.C. 1514A) (citations omitted); *Harp* v. *Charter Commc'ns, Inc.,* 558 F.3d 722, 723 (7th Cir. 2009) (agreeing with First, Fourth, Fifth, and Ninth Circuits that determining reasonable belief under the SOX whistleblower provision requires analysis of the complainant's subjective belief and the objective reasonableness of that belief); *Sylvester* v. *Parexel Int'l LLC,* ARB No. 07–123, 2011 WL 2165854, at *11–12 (ARB May 25, 2011) (same). The requirement that the complainant have a subjective, good faith belief is satisfied so long as the complainant actually believed that the conduct at issue violated the relevant law or regulation. See *Sylvester,* 2011 WL 2165854, at *11–12 (citing *Harp,* 558 F.3d at 723; *Day* v. *Staples, Inc.,* 555 F.3d 42, 54 n.10 (1st Cir. 2009)). The objective reasonableness of a complainant's belief is typically determined ''based on the knowledge available to a reasonable person in the same factual circumstances with the same training and experience as the aggrieved employee.'' *Harp,* 558 F.3d at 723 (quoting *Allen* v. *Admin. Review Bd.,* 514 F.3d 468, 477 (5th Cir. 2008)). However, the complainant need not show the conduct constituted an actual violation of law. Pursuant to this standard, an employee's whistleblower activity is protected when it is based on a reasonable, but mistaken, belief that a violation of the relevant law has occurred. See *Van Asdale* v. *Int'l Game Techs.,* 577 F.3d 989, 1001 (9th Cir. 2009); *Allen,* 514 F.3d at 477.

Section 1989.103 Filing of Retaliation Complaint

This section explains the requirements for filing a retaliation complaint under TFA. To be timely, a complaint must be filed within 180 days of when the alleged violation occurs. Under *Delaware State College* v. *Ricks,* 449 U.S. 250, 258 (1980), an alleged violation occurs when the retaliatory decision has been both made and communicated to the complainant. In other words, the limitations period commences once the employee is aware or reasonably should be aware of the employer's decision to take an adverse action. *EEOC* v. *United Parcel Serv., Inc.,* 249 F.3d 557, 561–62 (6th Cir. 2001). The time for filing a complaint under TFA may be tolled for reasons warranted by applicable case law. For

example, OSHA may consider the time for filing a complaint to be tolled if a complainant mistakenly files a complaint with an agency other than OSHA within 180 days after an alleged adverse action. *Xanthopoulos* v. *U.S. Dep't of Labor,* 991 F.3d 823, 832 (7th Cir. 2021) (affirming ARB's refusal to toll the statute of limitations under SOX and explaining the limited circumstances in which tolling is appropriate for a timely filing in the wrong forum).

Complaints filed under TFA need not be in any particular form. They may be either oral or in writing. If the complainant is unable to file the complaint in English, OSHA will accept the complaint in any language. With the consent of the employee, complaints may be filed by any person on the employee's behalf.

Section 1989.104 Investigation

This section describes the procedures that apply to the investigation of TFA complaints. Paragraph (a) of this section outlines the procedures for notifying the respondent, the employer (if different from the respondent), and the IRS of the complaint and notifying the respondent of the rights under these regulations. Paragraph (b) describes the procedures for the respondent to submit the response to the complaint. Paragraph (c) specifies that OSHA will request that the parties provide each other with copies of their submissions to OSHA during the investigation and that, if a party does not provide such copies, OSHA generally will do so at a time permitting the other party an opportunity to respond to those submissions. Before providing such materials, OSHA will redact them consistent with the Privacy Act of 1974, 5 U.S.C. 552a, and other applicable confidentiality laws. Paragraph (d) of this section discusses confidentiality of information provided during investigations.

Paragraph (e) of this section sets forth the applicable burdens of proof. TFA incorporates the burdens of proof in AIR21. Thus, in order for OSHA to conduct an investigation, TFA requires that a complainant make an initial prima facie showing that a protected activity was ''a contributing factor'' in the adverse action alleged in the complaint, *i.e.,* that the protected activity, alone or in combination with other factors, affected in some way the outcome of the employer's decision. The complainant will be considered to have met the required burden for OSHA to commence an investigation if the complaint on its face, supplemented as appropriate through interviews of the complainant, alleges the existence of facts and either direct or circumstantial evidence to meet the required showing. The complainant's burden at this stage may be satisfied, for example, if the complainant shows that the adverse action took place shortly after the protected activity.

If the complainant does not make the required prima facie showing, the investigation must be discontinued and the complaint dismissed. See *Trimmer* v. *U.S. Dep't of Labor,* 174 F.3d 1098, 1101 (10th Cir. 1999) (noting that the burden-shifting framework of the Energy Reorganization Act of 1974, as amended, (ERA) which is the same as that under TFA, serves a ''gatekeeping function'' intended to ''stem [ ] frivolous complaints''). Even in cases where the complainant successfully makes a prima facie showing, TFA requires that the investigation must be discontinued if the employer demonstrates, by clear and convincing evidence, that it would have taken the same adverse action in the absence of the protected activity. Thus, OSHA must dismiss the complaint and not investigate further if either: (1) The complainant fails to make the prima facie showing that protected activity was a contributing factor in the alleged adverse action; or (2) the employer rebuts that showing by clear and convincing evidence that it would have taken the same adverse action absent the protected activity.

Assuming that an investigation proceeds beyond the gatekeeping phase, the statute requires OSHA to determine whether there is reasonable cause to believe that protected activity was a contributing factor in the alleged adverse action. A contributing factor is ''any factor which, alone or in connection with other factors, tends to affect in any way the outcome of the decision.'' *Wiest* v. *Tyco Elec. Corp.,* 812 F.3d 319, 330 (3d Cir. 2016) (discussing ''contributing factor standard'' under SOX); *Feldman* v. *Law Enforcement Assocs. Corp.,* 752 F.3d 339, 348 (4th Cir. 2014) (same); *Lockheed Martin Corp.* v. *Admin. Review Bd.,* 717 F.3d 1121, 1136 (10th Cir. 2013) (same). A conclusion that protected activity was a contributing factor in an adverse action can be based on direct evidence or circumstantial evidence ''such as the temporal proximity between the protected activity and the adverse action, indications of pretext such as inconsistent application of policies and shifting explanations, antagonism or hostility toward protected activity, the relation between the discipline and the protected activity, and the presence [or absence] of intervening events that independently justify'' the adverse action. *Hess* v. *Union Pac. R.R. Co.,* 898 F.3d 852, 858 (8th Cir. 2018) (quoted source omitted) (discussing the contributing factor standard under the Federal Railroad Safety Act).

If OSHA finds reasonable cause to believe that the alleged protected activity was a contributing factor in the adverse action, OSHA may not order relief if the employer demonstrates by ''clear and convincing evidence'' that it would have taken the same action in the absence of the protected activity. See 49 U.S.C. 42121(b)(2)(B)(iv). The ''clear and convincing evidence'' standard is a higher burden of proof than a ''preponderance of the evidence'' standard. Clear and convincing evidence is evidence indicating that the thing to be proved is highly probable or reasonably certain. *Clarke* v. *Navajo Express,* ARB No. 09–114, 2011 WL 2614326, at *3 (ARB June 29, 2011).

Paragraph (f) describes the procedures OSHA will follow prior to the issuance of findings and a preliminary order when OSHA has reasonable cause to believe that a violation has occurred and reinstatement is required. Its purpose is to ensure compliance with the Due Process Clause of the Fifth Amendment, as interpreted by the Supreme Court in *Brock* v. *Roadway Express, Inc.,* 481 U.S. 252 (1987) (requiring OSHA to give a Surface Transportation Assistance Act respondent the opportunity to review the substance of the evidence and respond prior to ordering preliminary reinstatement).

Section 1989.105 Issuance of Findings and Preliminary Orders

This section provides that, on the basis of information obtained in the investigation, the Assistant Secretary will issue, within 60 days of the filing of a complaint, written findings regarding whether or not there is reasonable cause to believe that the complaint has merit. If the findings are that there is reasonable cause to believe that the complaint has merit, the Assistant Secretary will order all relief necessary to make the employee whole, including reinstatement with the same seniority status that the complainant would have had, but for the retaliation; the sum of 200 percent of the amount of back pay and 100 percent of all lost benefits, with interest; and compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees. The findings and, where appropriate, preliminary order, will also advise the parties of their right to file objections to the findings of the Assistant Secretary and to request a hearing. The findings

and, where appropriate, the preliminary order, will also advise the respondent of the right to request an award of attorney fees not exceeding a total of $1,000 from the ALJ, regardless of whether the respondent has filed objections, if the respondent alleges that the complaint was frivolous or brought in bad faith. If no objections are filed within 30 days of receipt of the findings, the findings and any preliminary order of the Assistant Secretary become the final decision and order of the Secretary. If objections are timely filed, any order of preliminary reinstatement will take effect, but the remaining provisions of the order will not take effect until administrative proceedings are completed.

The remedies provided under TFA aim to make the complainant whole by restoring the complainant to the position that the complainant would have occupied absent the retaliation and to counteract the chilling effect of retaliation on protected whistleblowing in the complainant's workplace. The back pay, benefits, and other remedies appropriate in each case will depend on the individual facts of the case and the evidence submitted, and the complainant's interim earnings must be taken into account in determining the appropriate back pay award. When there is evidence to determine these figures, a back pay award under TFA might include, for example, amounts that the complainant would have earned in commissions, bonuses, overtime, or raises had the complainant not been discharged in retaliation for engaging in protected activity under TFA. A benefits award under TFA might include amounts that the employer would have contributed to a 401(k) plan, insurance plan, profit-sharing plan, or retirement plan on the complainant's behalf had the complainant not been discharged in retaliation for engaging in protected activity under TFA. Other damages, including non-pecuniary damages, such as damages for emotional distress due to the retaliation, are also available under TFA. See, *e.g., Jones* v. *Southpeak Interactive Corp. of Del.,* 777 F.3d 658, 670–71 (4th Cir. 2015) (holding that emotional distress damages are available under identical remedial provision in SOX); *Halliburton, Inc.* v. *Admin. Review Bd.,* 771 F.3d 254, 264–66 (5th Cir. 2014) (same). Consistent with the rules under other whistleblower statutes enforced by the Department of Labor, in ordering interest on back pay under TFA, OSHA will compute interest due by compounding daily the Internal Revenue Service interest rate for the underpayment of taxes, which under 26 U.S.C. 6621(a)(2) is the Federal short-term rate plus three percentage points, against back pay. See, *e.g.,* 29 CFR 1980.105(a) (SOX); 29 CFR 1982.105(a) (Federal Railroad Safety Act (FRSA)); 29 CFR 1988.105(a) (Moving Ahead for Progress in the 21st Century Act (MAP–21)).

Consistent with the rules governing other Department of Labor-enforced whistleblower protection statutes, where appropriate, in ordering back pay, OSHA will require the respondent to submit the appropriate documentation to the Social Security Administration (SSA) allocating the back pay to the appropriate periods. See, *e.g.,* 29 CFR 1980.105(a) (SOX); 29 CFR 1982.105(a) (FRSA); 29 CFR 1988.105(a) (MAP–21)).

The statute permits OSHA to preliminarily reinstate employees to their positions if OSHA finds reasonable cause to believe that they were discharged in violation of TFA. See 49 U.S.C. 42121(b)(2)(A). When a violation is found, the norm is for OSHA to order immediate preliminary reinstatement. In appropriate circumstances, in lieu of preliminary reinstatement, OSHA may order that the complainant receive the same pay and benefits that the complainant received prior to termination but not actually return to work. Such ''economic reinstatement'' is akin to an order of front pay and is sometimes employed in cases arising under § 105(c) of the Federal Mine Safety and Health Act of 1977, which protects miners from retaliation. 30 U.S.C. 815(c); see, *e.g., Sec'y of Labor, MSHA* v. *North Fork Coal Corp.,* 33 FMSHRC 589, 2011 WL 1455831, at *4 (FMSHRC Mar. 25, 2011) (explaining economic reinstatement in lieu of temporary reinstatement in the context of § 105(c)). Front pay has been recognized as an appropriate remedy in cases under the whistleblower statutes enforced by OSHA in circumstances where reinstatement would not be appropriate. See, *e.g., Deltek, Inc.* v. *Dep't of Labor, Admin. Rev Bd.,* 649 Fed. App'x. 320, 333 (4th Cir. 2016) (affirming award of front pay in SOX case due to ''pronounced animosity between the parties;'' explaining that ''front pay 'is designed to place the complainant in the identical financial position' that she would have occupied had she remained employed or been reinstated.''); *Continental Airlines, Inc.* v. *Admin. Review Bd.,* 638 Fed. App'x. 283, 289–90 at *4 (5th Cir. 2016) (affirming front pay award under AIR21, and explaining that ''front-pay is available when reinstatement is not possible''), aff'g *Luder* v. *Cont'l Airlines, Inc.,* ARB No. 10–026, 2012 WL 376755, at *11 (ARB Jan. 31, 2012); see also *Brown* v. *Lockheed Martin Corp.,* ALJ No. 2008–SOX–00049, 2010 WL 2054426, at *55–56 (ALJ Jan. 15, 2010) (noting that while reinstatement is the ''presumptive remedy'' under SOX whistleblower provision, front pay may be awarded as a substitute when reinstatement is inappropriate), aff'd *Lockheed Martin Corp.* v. *Admin. Review Bd.,* 717 F.3d 1121, 1138 (10th Cir. 2013) (noting availability of all relief necessary to make the employee whole in SOX case but remanding for DOL to quantify remedies); *Indiana Michigan Power Co.* v. *U.S. Dep't of Labor,* 278 Fed. Appx. 597, 606 (6th Cir. 2008) (affirming front pay award under ERA). Neither an employer nor an employee has a statutory right to choose economic reinstatement. Rather, economic reinstatement is designed to accommodate situations in which evidence establishes to OSHA's satisfaction that immediate reinstatement is inadvisable for some reason, notwithstanding the employer's retaliatory discharge of the employee.

Subpart B—Litigation

Section 1989.106 Objections to the Findings and the Preliminary Order and Requests for a Hearing

Objections to the findings of the Assistant Secretary must be in writing and must be filed with the Chief Administrative Law Judge, U.S. Department of Labor, in accordance with 29 CFR part 18, as applicable, within 30 days of the receipt of the findings. The date of the postmark, facsimile transmittal, or electronic transmittal is considered the date of the filing; if the objection is filed in person, by hand-delivery or other means, the objection is filed upon receipt. The filing of objections also is considered a request for a hearing before an ALJ. Although the parties are directed to serve a copy of their objections on the other parties of record, as well as on the OSHA official who issued the findings and order, the Assistant Secretary, and the U.S. Department of Labor's Associate Solicitor for Fair Labor Standards, the failure to serve copies of the objections on the other parties of record does not affect the ALJ's jurisdiction to hear and decide the merits of the case. See *Shirani* v. *Calvert Cliffs Nuclear Power Plant, Inc.,* ARB No. 04–101, 2005 WL 2865915, at *7 (ARB Oct. 31, 2005). OSHA and the Associate Solicitor for Fair Labor Standards may specify the means, including electronic means, to serve them with copies of objections to OSHA's findings.

The timely filing of objections stays all provisions of the preliminary order, except for the portion requiring reinstatement. A respondent may file a motion to stay the Assistant Secretary's preliminary order of reinstatement with the Office of Administrative Law Judges. However, such a motion will be granted only based on exceptional circumstances. The Secretary believes that a stay of the Assistant Secretary's preliminary order of reinstatement under TFA would be appropriate only where the respondent can establish the necessary criteria for equitable injunctive relief, *i.e.,* irreparable injury, likelihood of success on the merits, a balancing of possible harms to the parties, and that the public interest favors a stay. If no timely objection to the Assistant Secretary's findings and/or preliminary order is filed, then the Assistant Secretary's findings and/or preliminary order become the final decision of the Secretary not subject to judicial review.

Section 1989.107 Hearings

This section adopts the rules of practice and procedure for administrative hearings before the Office of Administrative Law Judges, as set forth in 29 CFR part 18 subpart A. This section provides that the hearing is to commence expeditiously, except upon a showing of good cause or unless otherwise agreed to by the parties. Hearings will be conducted de novo, on the record. As noted in this section, formal rules of evidence will not apply, but rules or principles designed to assure production of the most probative evidence will be applied. The ALJ may exclude evidence that is immaterial, irrelevant, or unduly repetitious.

Section 1989.108 Role of Federal Agencies

The Assistant Secretary may participate as a party or amicus curiae at any time in the administrative proceedings under TFA. For example, the Assistant Secretary may exercise discretion to prosecute the case in the administrative proceeding before an ALJ; petition for review of a decision of an ALJ, including a decision based on a settlement agreement between the complainant and the respondent, regardless of whether the Assistant Secretary participated before the ALJ; or participate as amicus curiae before the ALJ or the ARB. Although OSHA anticipates that ordinarily the Assistant Secretary will not participate, the Assistant Secretary may choose to do so in appropriate cases, such as cases involving important or novel legal issues, multiple employees, alleged violations that appear egregious, or where the interests of justice might require participation by the Assistant Secretary. The IRS, if interested in a proceeding, also may participate as amicus curiae at any time in the proceedings.

Section 1989.109 Decisions and Orders of the Administrative Law Judge

This section sets forth the requirements for the content of the decisions and orders of the ALJ, and includes the standard for finding a violation under TFA. Specifically, because TFA incorporates the burdens of proof in AIR21, the complainant must demonstrate (*i.e.,* prove by a preponderance of the evidence) that the protected activity was a ''contributing factor'' in the adverse action. See 49 U.S.C. 42121(b)(2)(B)(iii); see, *e.g., Allen,* 514 F.3d at 475 n.1 (''The term 'demonstrates' [under identical burden-shifting scheme in the SOX whistleblower provision] means to prove by a preponderance of the evidence.''). If the employee demonstrates that the alleged protected activity was a contributing factor in the adverse action, then the employer must demonstrate by ''clear and convincing evidence'' that it would have taken the same action in the absence of the protected activity. See 49 U.S.C. 42121(b)(2)(B)(iv).

Paragraph (c) of this section further provides that OSHA's determination to dismiss the complaint without an investigation or without a complete investigation under § 1989.104 is not subject to review. Thus, § 1989.109(c) clarifies that OSHA's determinations on whether to proceed with an investigation under TFA and whether to make particular investigative findings are discretionary decisions not subject to review by the ALJ. The ALJ hears cases de novo and, therefore, as a general matter, may not remand cases to OSHA to conduct an investigation or make further factual findings. Paragraph (d) notes the remedies that the ALJ may order under TFA and, as discussed under § 1989.105 above, provides that interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621(a)(2) and will be compounded daily, and that the respondent will be required to submit appropriate documentation to the SSA allocating any back pay award to the appropriate periods. Paragraph (e) requires that the ALJ's decision be served on all parties to the proceeding, OSHA, and the U.S. Department of Labor's Associate Solicitor for Fair Labor Standards. OSHA and the Associate Solicitor for Fair Labor Standards may specify the means, including electronic means, for service of the ALJ's decision on them. Paragraph (e) also provides that any ALJ decision requiring reinstatement or lifting an order of reinstatement by the Assistant Secretary will be effective immediately upon receipt of the decision by the respondent. All other portions of the ALJ's order will be effective 30 days after the date of the decision unless a timely petition for review has been filed with the ARB. If a timely petition for review is not filed with the ARB, the decision of the ALJ becomes the final decision of the Secretary and is not subject to judicial review.

Section 1989.110 Decisions and Orders of the Administrative Review Board

Upon the issuance of the ALJ's decision, the parties have 30 days within which to petition the ARB for review of that decision. The date of the postmark, facsimile transmittal, or electronic transmittal is considered the date of filing of the petition; if the petition is filed in person, by hand delivery, or other means, the petition is considered filed upon receipt.

The appeal provisions in this part provide that an appeal to the ARB is only accepted at the discretion of the ARB. The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived. The ARB has 30 days to decide whether to grant the petition for review. If the ARB does not grant the petition, the decision of the ALJ becomes the final decision of the Secretary. If a timely petition for review is filed with the ARB, any relief ordered by the ALJ, except for that portion ordering reinstatement, is inoperative while the matter is pending before the ARB. When the ARB accepts a petition for review, the ALJ's factual determinations will be reviewed under the substantial evidence standard.

This section also provides that, based on exceptional circumstances, the ARB may grant a motion to stay an ALJ's preliminary order of reinstatement under TFA (which otherwise would be effective immediately), while the ARB reviews the order. The Secretary believes that a stay of an ALJ's preliminary order of reinstatement under TFA would be appropriate only where the respondent can establish the necessary criteria for equitable injunctive relief, *i.e.,* irreparable injury, likelihood of success on the merits, a balancing of possible harms to the

parties, and that the public interest favors a stay.

If the ARB concludes that the respondent has violated the law, it will issue an order providing all relief necessary to make the complainant whole. The order will require, where appropriate: Reinstatement with the same seniority status that the complainant would have had, but for the retaliation; the sum of 200 percent of the amount of back pay and 100 percent of all lost benefits, with interest; and compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes pursuant to 26 U.S.C. 6621(a)(2) and will be compounded daily, and the respondent will be required to submit appropriate documentation to the SSA allocating any back pay award to the appropriate periods. If the ARB determines that the respondent has not violated the law, an order will be issued denying the complaint. If, upon the request of the respondent, the ARB determines that a complaint was frivolous or was brought in bad faith, the ARB may award to the respondent a reasonable attorney fee, not exceeding a total of $1,000. The decision of the ARB is subject to discretionary review by the Secretary of Labor. See Secretary of Labor's Order, 01–2020 (Feb. 21, 2020), 85 FR 13024–01 (Mar. 6, 2020).

As provided in that Secretary's Order, a party may petition the ARB to refer a decision to the Secretary for further review, after which the Secretary may accept review, decline review, or take no action. If no such petition is filed, the ARB's decision shall become the final action of the Department 28 calendar days after the date on which the decision was issued. If such a petition is filed and the ARB declines to refer the case to the Secretary, the ARB's decision shall become final 28 calendar days after the date on which the petition for review was filed. If the ARB refers a decision to the Secretary for further review, and the Secretary takes no action in response to the ARB's referral, or declines to accept the case for review, the ARB's decision shall become final either 28 calendar days from the date of the referral, or on the date on which the Secretary declines review, whichever comes first.

In the alternative, under the Secretary's Order, at any point during the first 28 calendar days after the date on which an ARB decision was issued, the Secretary may direct the ARB to refer the decision to the Secretary for review. If the Secretary directs the ARB to refer a case to the Secretary, or notifies the parties that the case has been accepted for review, the ARB's decision shall not become the final action of the Department and shall have no legal force or effect, unless and until the Secretary adopts the ARB's decision.

Under the Secretary's Order, any final decision made by the Secretary shall be made solely based on the administrative record, the petition and briefs filed with the ARB, and any amicus briefs permitted by the Secretary. The decision shall be in writing and shall be transmitted to the ARB, who will publish the decision and transmit it to the parties to the case. The Secretary's decision shall constitute final action by the Department and shall serve as binding precedent in all Department proceedings involving the same issue or issues.

Subpart C—Miscellaneous Provisions

Section 1989.111 Withdrawal of Complaints, Findings, Objections, and Petitions for Review; Settlement

This section provides the procedures and time periods for withdrawal of complaints, withdrawal of findings and/or preliminary orders by the Assistant Secretary, and withdrawal of objections to findings and/or orders. It permits complainants to withdraw their complaints orally, and provides that, in such circumstances, OSHA will confirm a complainant's desire to withdraw in writing. It also provides for approval of settlements at the investigative and adjudicatory stages of the case.

Section 1989.112 Judicial Review

This section describes the statutory provisions for judicial review of decisions of the Secretary and requires, in cases where judicial review is sought, the ARB or the ALJ to submit the record of proceedings to the appropriate court pursuant to the rules of such court.

Section 1989.113 Judicial Enforcement

This section describes the ability of the Secretary, the complainant, and the respondent under TFA to obtain judicial enforcement of orders and terms of settlement agreements. Through the incorporation of the rules and procedures in AIR21, TFA authorizes district courts to enforce orders issued by the Secretary under the provisions of 49 U.S.C. 42121(b). Specifically, 49 U.S.C. 42121(b)(5) provides that ''[w]henever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory damages.'' 49 U.S.C. 42121(b)(5). Similarly, 49 U.S.C. 42121(b)(6), provides that a person on whose behalf an order was issued ''may commence a civil action against the person to whom such order was issued to required compliance with such order'' in the appropriate United States district court, which will have jurisdiction without regard to the amount in controversy or the citizenship of the parties, to enforce such order. The Secretary views these provisions as permitting district courts to enforce both final orders of the Secretary and preliminary orders of reinstatement for the same reasons that the Secretary has expressed with regard to SOX, which incorporates the rules and procedures of AIR21 using identical language to that in TFA. See Procedures for the Handling of Retaliation Complaints Under § 806 of the Sarbanes-Oxley Act of 2002, as Amended, Final Rule, 80 FR 11865–02, 11,877 (Mar. 5, 2015) (discussing district court enforcement of preliminary reinstatement orders under SOX); see also Brief for the Intervenor/Plaintiff-Appellee Secretary of Labor, *Solis* v. *Tenn. Commerce Bancorp, Inc.,* No. 10–5602 (6th Cir. 2010); *Solis* v. *Tenn. Commerce Bancorp, Inc.,* 713 F. Supp. 2d 701 (M.D. Tenn. 2010); but see *Bechtel* v. *Competitive Techs., Inc.,* 448 F.3d 469 (2d Cir. 2006); *Welch* v. *Cardinal Bankshares Corp.,* 454 F. Supp. 2d 552 (W.D. Va. 2006), decision vacated, appeal dismissed, No. 06–2295 (4th Cir. Feb. 20, 2008)).

Section 1989.114 District Court Jurisdiction of Retaliation Complaints

This section sets forth TFA's provisions allowing a complainant to bring an original de novo action in district court, alleging the same allegations contained in the complaint filed with OSHA, if there has been no final decision of the Secretary within 180 days after the date of the filing of the complaint. See 26 U.S.C. 7623(d)(2)(A)(ii). This section also incorporates the statutory provisions that allow for a jury trial at the request of either party in a district court action and that specify the burdens of proof in a district court action. 26 U.S.C. 7623(d)(2)(B)(iii), (v).

This section also requires that, within seven days after filing a complaint in district court, a complainant must provide a file-stamped copy of the complaint to OSHA, the ALJ, or the

ARB, depending on where the proceeding is pending. If the ARB has issued a decision that has not yet become final under Secretary of Labor's Order 01–2020, the case is regarded as pending before the ARB for purposes of this section and a copy of any district court complaint should be sent to the ARB. A copy of the district court complaint also must be provided to the OSHA official who issued the findings and/or preliminary order, the Assistant Secretary, and the U.S. Department of Labor's Associate Solicitor for Fair Labor Standards. This provision is necessary to notify the agency that the complainant has opted to file a complaint in district court. This provision is not a substitute for the complainant's compliance with the requirements for service of process of the district court complaint contained in the Federal Rules of Civil Procedure and the local rules of the district court where the complaint is filed.

Finally, it should be noted that although a complainant may file an action in district court if the Secretary has not issued a final decision within 180 days of the filing of the complaint with OSHA, it is the Department of Labor's position that complainants may not initiate an action in federal court after the Secretary issues a final decision, even if the date of the final decision is more than 180 days after the filing of the complaint. Thus, for example, after the ARB has issued a decision that has become final denying a whistleblower complaint, the complainant no longer may file an action for de novo review in federal district court. See *Soo Line R.R., Inc.* v. *Admin. Review Bd.,* 990 F.3d 596, 598 n.1 (8th Cir. 2021). The purpose of the ''kick-out'' provision is to aid the complainant in receiving a prompt decision. That goal is not implicated in a situation where the complainant already has received a final decision from the Secretary. In addition, permitting the complainant to file a new case in district court in such circumstances could conflict with the parties' rights to seek judicial review of the Secretary's final decision in the court of appeals. See 49 U.S.C. 42121(b)(4)(B) (providing that an order with respect to which review could have been obtained in the court of appeals shall not be subject to judicial review in any criminal or other civil proceeding).

Section 1989.115 Special Circumstances; Waiver of Rules

This section provides that, in circumstances not contemplated by these rules or for good cause, the ALJ or the ARB may, upon application and notice to the parties, waive any rule as justice or the administration of TFA requires.

IV. Paperwork Reduction Act

This rule contains a reporting provision (filing a retaliation complaint, section 1989.103) which was previously reviewed as a statutory requirement of TFA and approved for use by the Office of Management and Budget (OMB), as part of the Information Collection Request (ICR) assigned OMB control number 1218–0236 under the provisions of the Paperwork Reduction Act of 1995 (PRA). See Public Law 104–13, 109 Stat. 163 (1995). A non-material change has been submitted to OMB to include the regulatory citation.

V. Administrative Procedure Act

The notice and comment rulemaking procedures of § 553 of the Administrative Procedure Act (APA) do not apply ''to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.'' 5 U.S.C. 553(b)(A). This is a rule of agency procedure, practice, and interpretation within the meaning of that section, because it provides the procedures for the handling of retaliation complaints. Therefore, publication in the **Federal Register** of a notice of proposed rulemaking and request for comments are not required for this rule. Although this is a procedural and interpretative rule not subject to the notice and comment procedures of the APA, OSHA is providing persons interested in this interim final rule 60 days to submit comments. A final rule will be published after OSHA receives and reviews the public's comments.

Furthermore, because this rule is procedural and interpretative rather than substantive, the normal requirement of 5 U.S.C. 553(d) that a rule be effective 30 days after publication in the **Federal Register** is inapplicable. OSHA also finds good cause to provide an immediate effective date for this interim final rule. It is in the public interest that the rule be effective immediately so that parties may know what procedures are applicable to pending cases.

VI. Executive Orders 12866, 13563, and 13771; Unfunded Mandates Reform Act of 1995; Executive Order 13132

The Office of Information and Regulatory Affairs has concluded that this rule is not a ''significant regulatory action'' within the meaning of Executive Order 12866, reaffirmed by Executive Order 13563, because it is not likely to: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no economic impact analysis under § 6(a)(3)(C) of Executive Order 12866 has been prepared.

This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

Also, because this rule is not significant under Executive Order 12866, and because no notice of proposed rulemaking has been published, no statement is required under § 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532. In any event, this rulemaking is procedural and interpretative in nature and is thus not expected to have a significant economic impact. Finally, this rule does not have ''federalism implications.'' The rule does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government[,]'' and therefore, is not subject to Executive Order 13132 (Federalism).

VII. Regulatory Flexibility Analysis

The notice and comment rulemaking procedures of § 553 of the APA do not apply ''to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.'' 5 U.S.C. 553(b)(A). Rules that are exempt from APA notice and comment requirements are also exempt from the Regulatory Flexibility Act (RFA). See Small Business Administration Office of Advocacy, A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act, at 9; also found at *https://www.sba.gov/advocacy/guide-government-agencies-how-comply-regulatory-flexibility-act.* This is a rule of agency procedure, practice, and interpretation within the meaning of 5 U.S.C. 553; and, therefore, the rule is exempt from both the notice and comment rulemaking procedures of the

APA and the requirements under the RFA.

List of Subjects in 29 CFR Part 1989

Administrative practice and procedure, Employment, Taxation, Whistleblower.

Authority and Signature

This document was prepared under the direction and control of Douglas L. Parker, Assistant Secretary of Labor for Occupational Safety and Health.

Signed at Washington, DC.

Douglas L. Parker,

Assistant Secretary of Labor for Occupational Safety and Health.

■ Accordingly, for the reasons set out in the preamble, 29 CFR part 1989 is added to read as follows:

PART 1989—PROCEDURES FOR THE HANDLING OF RETAILIATION COMPAINTS UNDER THE TAXPAYER FIRST ACT (TFA)

Subpart A—Complaints, Investigations, Findings, and Preliminary Orders

Subpart B—Litigation

Subpart C—Miscellaneous Provisions

Authority: 26 U.S.C. 7623(d); Secretary of Labor's Order 08–2020 (May 15, 2020), 85 FR 58393 (September 18, 2020); Secretary of Labor's Order 01–2020 (Feb. 21, 2020), 85 FR 13024–01 (Mar. 6, 2020).

Subpart A—Complaints, Investigations, Findings, and Preliminary Orders

§ 1989.100 Purpose and scope.

(a) This part sets forth procedures for, and interpretations of, section 1405(b) of the Taxpayer First Act (TFA), Public Law 116–25, 133 Stat. 981 (July 1, 2019) (codified at 26 U.S.C. 7623(d)). TFA provides for employee protection from retaliation because the employee has engaged in protected activity pertaining to underpayment of tax or any conduct which the employee reasonably believes constitutes a violation of the internal revenue laws or any provision of Federal law relating to tax fraud.

(b) This part establishes procedures under TFA for the expeditious handling of retaliation complaints filed by employees, or by persons acting on their behalf. These rules, together with those codified at 29 CFR part 18, set forth the procedures under TFA for submission of complaints, investigations, issuance of findings and preliminary orders, objections to findings and orders, litigation before administrative law judges (ALJs), post-hearing administrative review, and withdrawals and settlements. In addition, these rules provide the Secretary's interpretations on certain statutory issues.

§ 1989.101 Definitions.

As used in this part:

Assistant Secretary means the Assistant Secretary of Labor for Occupational Safety and Health or the person or persons to whom the Assistant Secretary delegates authority under TFA.

Business days means days other than Saturdays, Sundays, and Federal holidays.

Complainant means the person who filed a TFA complaint or on whose behalf a complaint was filed.

Employee means an individual presently or formerly working for, an individual applying to work for, or an individual whose employment could be affected by, another person.

IRS means the Internal Revenue Service of the United States Department of the Treasury.

OSHA means the Occupational Safety and Health Administration of the United States Department of Labor.

Person means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, or estate.

Respondent means the person named in the complaint who is alleged to have violated TFA.

Secretary means the Secretary of Labor.

TFA means section 1405(b) of the Taxpayer First Act (TFA), Public Law 116–25, 133 Stat. 981 (July 1, 2019) (codified at 26 U.S.C. 7623(d)).

§ 1989.102 Obligations and prohibited acts.

(a) No employer or any officer, employee, contractor, subcontractor, or agent of such employer may discharge, demote, suspend, threaten, harass, or in any other manner retaliate against, including, but not limited to, intimidating, restraining, coercing, blacklisting, or disciplining, an employee in the terms and conditions of employment in reprisal for the employee having engaged in any of the activities specified in paragraphs (b)(1) and (2) of this section.

(b) An employee is protected against retaliation (as described in paragraph (a) of this section) by an employer or any officer, employee, contractor, subcontractor, or agent of such employer in reprisal for any lawful act done by the employee:

(1) To provide information, cause information to be provided, or otherwise assist in an investigation regarding underpayment of tax or any conduct which the employee reasonably believes constitutes a violation of the internal revenue laws or any provision of Federal law relating to tax fraud, when the information or assistance is provided to the Internal Revenue Service, the Secretary of the Treasury, the Treasury Inspector General for Tax Administration, the Comptroller General of the United States, the Department of Justice, the United States Congress, a person with supervisory authority over the employee, or any other person working for the employer who has the authority to investigate, discover, or terminate misconduct; or

(2) To testify, participate in, or otherwise assist in any administrative or judicial action taken by the Internal Revenue Service relating to an alleged underpayment of tax or any violation of the internal revenue laws or any provision of Federal law relating to tax fraud.

§ 1989.103 Filing of retaliation complaint.

(a) *Who may file.* A person who believes that they have been discharged or otherwise retaliated against by any person in violation of TFA may file, or have filed by any person on their behalf, a complaint alleging such retaliation.

(b) *Nature of filing.* No particular form of complaint is required. A complaint may be filed orally or in writing. Oral complaints will be reduced to writing by OSHA. If the complainant is unable to file the complaint in English, OSHA will accept the complaint in any language.

(c) *Place of filing.* The complaint should be filed with the OSHA office responsible for enforcement activities in the geographical area where the complainant resides or was employed, but may be filed with any OSHA officer or employee. Addresses and telephone

numbers for these officials are set forth in local directories and at the following internet address: *http://www.osha.gov.* Complaints may also be filed online at *https://www.osha.gov/whistleblower/WBComplaint.html.*

(d) *Time for filing.* Within 180 days after an alleged violation of TFA occurs, any person who believes that they have been retaliated against in violation of TFA may file, or have filed by any person on their behalf, a complaint alleging such retaliation. The date of the postmark, facsimile transmittal, electronic filing or transmittal, telephone call, hand-delivery, delivery to a third-party commercial carrier, or in-person filing at an OSHA office will be considered the date of filing. The time for filing a complaint may be tolled for reasons warranted by applicable case law. For example, OSHA may consider the time for filing a complaint to be tolled if a complainant mistakenly files a complaint with an agency other than OSHA within 180 days after an alleged adverse action.

§ 1989.104 Investigation.

(a) Upon receipt of a complaint in the investigating office, OSHA will notify the respondent and the complainant's employer (if different) of the filing of the complaint, of the allegations contained in the complaint, and of the substance of the evidence supporting the complaint. Such materials will be redacted, if necessary, consistent with the Privacy Act of 1974, 5 U.S.C. 552a, and other applicable confidentiality laws. OSHA will also notify the respondent of its rights under paragraphs (b) and (f) of this section and § 1989.110(e). OSHA will provide an unredacted copy of these same materials to the complainant (or the complainant's legal counsel if complainant is represented by counsel) and to the IRS.

(b) Within 20 days of receipt of the notice of the filing of the complaint provided under paragraph (a) of this section, the respondent may submit to OSHA a written statement and any affidavits or documents substantiating its position. Within the same 20 days, the respondent may request a meeting with OSHA to present its position.

(c) During the investigation, OSHA will request that each party provide the other parties to the whistleblower complaint with a copy of submissions to OSHA that are pertinent to the whistleblower complaint. Alternatively, if a party does not provide its submissions to OSHA to the other party, OSHA generally will provide them to the other party (or the party's legal counsel if the party is represented by counsel) at a time permitting the other party an opportunity to respond. Before providing such materials to the other party, OSHA will redact them, if necessary, consistent with the Privacy Act of 1974, 5 U.S.C. 552a, and other applicable confidentiality laws. OSHA will also provide each party with an opportunity to respond to the other party's submissions.

(d) Investigations will be conducted in a manner that protects the confidentiality of any person who provides information on a confidential basis, other than the complainant, in accordance with part 70 of this title.

(e)(1) A complaint will be dismissed unless the complainant has made a prima facie showing that a protected activity was a contributing factor in the adverse action alleged in the complaint.

(2) The complaint, supplemented as appropriate by interviews of the complainant, must allege the existence of facts and evidence to make a prima facie showing as follows:

(i) The employee engaged in a protected activity;

(ii) The respondent knew or suspected that the employee engaged in the protected activity;

(iii) The employee suffered an adverse action; and

(iv) The circumstances were sufficient to raise the inference that the protected activity was a contributing factor in the adverse action.

(3) For purposes of determining whether to investigate, the complainant will be considered to have met the required burden if the complaint on its face, supplemented as appropriate through interviews of the complainant, alleges the existence of facts and either direct or circumstantial evidence to meet the required showing, *i.e.,* to give rise to an inference that the respondent knew or suspected that the employee engaged in protected activity and that the protected activity was a contributing factor in the adverse action. The burden may be satisfied, for example, if the complainant shows that the adverse action took place shortly after the protected activity. If the required showing has not been made, the complainant (or the complainant's legal counsel if complainant is represented by counsel) will be so notified and the investigation will not commence.

(4) Notwithstanding a finding that a complainant has made a prima facie showing, as required by this section, further investigation of the complaint will not be conducted if the respondent demonstrates by clear and convincing evidence that it would have taken the same adverse action in the absence of the complainant's protected activity.

(5) If the respondent fails to make a timely response or fails to satisfy its burden set forth in the prior paragraph, OSHA will proceed with the investigation. The investigation will proceed whenever it is necessary or appropriate to confirm or verify the information provided by the respondent.

(f) Prior to the issuance of findings and a preliminary order as provided for in § 1989.105, if OSHA has reasonable cause, on the basis of information gathered under the procedures of this part, to believe that the respondent has violated TFA and that preliminary reinstatement is warranted, OSHA will contact the respondent (or the respondent's legal counsel if respondent is represented by counsel) to give notice of the substance of the relevant evidence supporting the complainant's allegations as developed during the course of the investigation. This evidence includes any witness statements, which will be redacted to protect the identity of confidential informants where statements were given in confidence; if the statements cannot be redacted without revealing the identity of confidential informants, summaries of their contents will be provided. The complainant will also receive a copy of the materials that must be provided to the respondent under this paragraph. Before providing such materials, OSHA will redact them, if necessary, consistent with the Privacy Act of 1974, 5 U.S.C. 552a, and other applicable confidentiality laws. The respondent will be given the opportunity to submit a written response, to meet with the investigator, to present statements from witnesses in support of its position, and to present legal and factual arguments. The respondent must present this evidence within 10 business days of OSHA's notification pursuant to this paragraph, or as soon thereafter as OSHA and the respondent can agree, if the interests of justice so require.

§ 1989.105 Issuance of findings and preliminary orders.

(a) After considering all the relevant information collected during the investigation, the Assistant Secretary will issue, within 60 days of the filing of the complaint, written findings as to whether or not there is reasonable cause to believe that the respondent has retaliated against the complainant in violation of TFA.

(1) If the Assistant Secretary concludes that there is reasonable cause to believe that a violation has occurred, the Assistant Secretary will accompany the findings with a preliminary order

providing relief to the complainant. The preliminary order will include all relief necessary to make the complainant whole including, where appropriate: Reinstatement with the same seniority status that the complainant would have had, but for the retaliation; the sum of 200 percent of the amount of back pay and 100 percent of all lost benefits, with interest; and compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621(a)(2) and will be compounded daily. Where appropriate, the preliminary order will also require the respondent to submit appropriate documentation to the Social Security Administration allocating any back pay award to the appropriate periods.

(2) If the Assistant Secretary concludes that a violation has not occurred, the Assistant Secretary will notify the parties of that finding.

(b) The findings and, where appropriate, the preliminary order will be sent by physical or electronic means that allow OSHA to confirm delivery to all parties of record (or each party's legal counsel if the party is represented by counsel). The findings and, where appropriate, the preliminary order will inform the parties of the right to object to the findings and/or order and to request a hearing, and of the right of the respondent to request an award of attorney fees not exceeding $1,000 from the ALJ, regardless of whether the respondent has filed objections, if the respondent alleges that the complaint was frivolous or brought in bad faith. The findings and, where appropriate, the preliminary order, also will give the address of the Chief Administrative Law Judge, U.S. Department of Labor, or appropriate information regarding filing objections electronically with the Office of Administrative Law Judges if electronic filing is available. The findings also may specify the means, including electronic means, for serving OSHA and the Associate Solicitor for Fair Labor Standards with documents in the administrative litigation as required under this Part. At the same time, the Assistant Secretary will file with the Chief Administrative Law Judge a copy of the original complaint and a copy of the findings and/or order.

(c) The findings and any preliminary order will be effective 30 days after receipt by the respondent (or the respondent's legal counsel if the respondent is represented by counsel), or on the compliance date set forth in the preliminary order, whichever is later, unless an objection and/or a request for hearing has been timely filed as provided at § 1989.106. However, the portion of any preliminary order requiring reinstatement will be effective immediately upon the respondent's receipt of the findings and the preliminary order, regardless of any objections to the findings and/or the order.

Subpart B—Litigation

§ 1989.106 Objections to the findings and the preliminary order and requests for a hearing.

(a) Any party who desires review, including judicial review, of the findings and/or preliminary order, or a respondent alleging that the complaint was frivolous or brought in bad faith who seeks an award of attorney fees under TFA, must file any objections and/or a request for a hearing on the record within 30 days of receipt of the findings and preliminary order pursuant to § 1989.105. The objections and request for hearing and/or request for attorney fees must be in writing and must state whether the objections are to the findings, the preliminary order, or both, and/or whether there should be an award of attorney fees. The date of the postmark, facsimile transmittal, or electronic transmittal is considered the date of filing; if the objection is filed in person, by hand delivery, or other means, the objection is filed upon receipt. Objections must be filed with the Chief Administrative Law Judge, U.S. Department of Labor, in accordance with 29 CFR part 18, and copies of the objections must be served at the same time on the other parties of record, the OSHA official who issued the findings and order, the Assistant Secretary, and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor. OSHA and the Associate Solicitor for Fair Labor Standards may specify the means, including electronic means, for serving then with copies of the objections.

(b) If a timely objection is filed, all provisions of the preliminary order will be stayed, except for the portion requiring preliminary reinstatement, which will not be automatically stayed. The portion of the preliminary order requiring reinstatement will be effective immediately upon the respondent's receipt of the findings and preliminary order, regardless of any objections to the order. The respondent may file a motion with the Office of Administrative Law Judges for a stay of the Assistant Secretary's preliminary order of reinstatement, which shall be granted only based on exceptional circumstances. If no timely objection is filed with respect to either the findings or the preliminary order, the findings and/or the preliminary order will become the final decision of the Secretary, not subject to judicial review.

§ 1989.107 Hearings.

(a) Except as provided in this part, proceedings will be conducted in accordance with the rules of practice and procedure for administrative hearings before the Office of Administrative Law Judges, codified at subpart A of part 18 of this title.

(b) Upon receipt of an objection and request for hearing, the Chief Administrative Law Judge will promptly assign the case to an ALJ who will notify the parties of the day, time, and place of hearing. The hearing is to commence expeditiously, except upon a showing of good cause or unless otherwise agreed to by the parties. Hearings will be conducted de novo on the record. ALJs have broad discretion to limit discovery in order to expedite the hearing.

(c) If both the complainant and the respondent object to the findings and/or order, the objections will be consolidated and a single hearing will be conducted.

(d) Formal rules of evidence will not apply, but rules or principles designed to assure production of the most probative evidence will be applied. The ALJ may exclude evidence that is immaterial, irrelevant, or unduly repetitious.

§ 1989.108 Role of Federal agencies.

(a)(1) The complainant and the respondent will be parties in every proceeding and must be served with copies of all documents in the case. At the Assistant Secretary's discretion, the Assistant Secretary may participate as a party or as amicus curiae at any time at any stage of the proceeding. This right to participate includes, but is not limited to, the right to petition for review of a decision of an ALJ, including a decision approving or rejecting a settlement agreement between the complainant and the respondent, and the right to seek discretionary review of a decision of the Administrative Review Board (ARB) from the Secretary.

(2) Parties must send copies of documents to OSHA and to the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, only upon request of OSHA, or when OSHA is participating in the proceeding, or when service on OSHA and the Associate Solicitor is otherwise

required by these rules. Except as otherwise provided in rules of practice and/or procedure before the OALJ or the ARB, OSHA and the Associate Solicitor for Fair Labor Standards may specify the means, including electronic means, for serving them with documents under this section.

(b) The IRS, if interested in a proceeding, may participate as amicus curiae at any time in the proceeding, at the IRS's discretion. At the request of the IRS, copies of all documents in a case must be sent to the IRS, whether or not it is participating in the proceeding.

§ 1989.109 Decisions and orders of the administrative law judge.

(a) The decision of the ALJ will contain appropriate findings, conclusions, and an order pertaining to the remedies provided in paragraph (d) of this section, as appropriate. A determination that a violation has occurred may be made only if the complainant has demonstrated by a preponderance of the evidence that protected activity was a contributing factor in the adverse action alleged in the complaint.

(b) If the complainant has satisfied the burden set forth in the prior paragraph, relief may not be ordered if the respondent demonstrates by clear and convincing evidence that it would have taken the same adverse action in the absence of any protected activity.

(c) Neither OSHA's determination to dismiss a complaint without completing an investigation pursuant to § 1989.104(e) nor OSHA's determination to proceed with an investigation is subject to review by the ALJ, and a complaint may not be remanded for the completion of an investigation or for additional findings on the basis that a determination to dismiss was made in error. Rather, if there otherwise is jurisdiction, the ALJ will hear the case on the merits or dispose of the matter without a hearing if the facts and circumstances warrant.

(d)(1) If the ALJ concludes that the respondent has violated the law, the ALJ will issue an order providing all relief necessary to make the complainant whole, including, where appropriate: Reinstatement with the same seniority status that the complainant would have had, but for the retaliation; the sum of 200 percent of the amount of back pay and 100 percent of all lost benefits, with interest; and compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621(a)(2) and will be compounded daily. The order will also require the respondent to submit appropriate documentation to the Social Security Administration allocating any back pay award to the appropriate periods.

(2) If the ALJ determines that the respondent has not violated the law, an order will be issued denying the complaint. If, upon the request of the respondent, the ALJ determines that a complaint was frivolous or was brought in bad faith, the ALJ may award to the respondent a reasonable attorney fee, not exceeding $1,000.

(e) The decision will be served upon all parties to the proceeding, the Assistant Secretary, and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor. OSHA and the Associate Solicitor for Fair Labor Standards may specify the means, including electronic means, for service of decisions on them under this section. Any ALJ's decision requiring reinstatement or lifting an order of reinstatement by the Assistant Secretary will be effective immediately upon receipt of the decision by the respondent. All other portions of the ALJ's order will be effective 30 days after the date of the decision unless a timely petition for review has been filed with the Administrative Review ARB (ARB), U.S. Department of Labor. The decision of the ALJ will become the final order of the Secretary unless a petition for review is timely filed with the ARB and the ARB accepts the petition for review.

§ 1989.110 Decisions and orders of the Administrative Review Board.

(a) Any party desiring to seek review, including judicial review, of a decision of the ALJ, or a respondent alleging that the complaint was frivolous or brought in bad faith who seeks an award of attorney fees, must file a written petition for review with the Administrative Review Board (ARB or Board), which has been delegated the authority to act for the Secretary and issue decisions under this part subject to the Secretary's discretionary review. The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived. A petition must be filed within 30 days of the date of the decision of the ALJ. All petitions and documents submitted to the ARB must be filed electronically, in accordance with Part 26, unless another filing method has been authorized by the ARB for good cause. The date of the postmark, facsimile transmittal, or electronic transmittal will be considered to be the date of filing; if the petition is filed in person, by hand delivery, or other means, the petition is considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the ARB. The petition for review also must be served on the Assistant Secretary and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor. OSHA and the Associate Solicitor for Fair Labor Standards may specify the means, including electronic means, for service of petitions for review on them under this section.

(b) If a timely petition for review is filed pursuant to paragraph (a) of this section, the decision of the ALJ will become the final order of the Secretary unless the ARB, within 30 days of the filing of the petition, issues an order notifying the parties that the case has been accepted for review. If a case is accepted for review, the decision of the ALJ will be inoperative unless and until the ARB issues an order adopting the decision, except that any order of reinstatement will be effective while review is conducted by the ARB, unless the ARB grants a motion by the respondent to stay that order based on exceptional circumstances. The ARB will specify the terms under which any briefs are to be filed. The ARB will review the factual determinations of the ALJ under the substantial evidence standard. If a timely petition for review is not filed, or the ARB denies review, the decision of the ALJ will become the final order of the Secretary. If a timely petition for review is not filed, the resulting final order is not subject to judicial review.

(c) The decision of the ARB will be issued within 120 days of the conclusion of the hearing, which will be deemed to be 30 days after the decision of the ALJ, unless a motion for reconsideration has been filed with the ALJ in the interim. In such case, the conclusion of the hearing is the date the motion for reconsideration is ruled upon or 30 days after a new decision is issued. The ARB's decision will be served upon all parties and the Chief Administrative Law Judge. The decision will also be served on the Assistant Secretary and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, even if the Assistant Secretary is not a party. OSHA and the Associate Solicitor for Fair Labor Standards may specify the means, including electronic means, for service of ARB decisions on them under this section.

(d) If the ARB concludes that the respondent has violated the law, the ARB will issue an order providing all relief necessary to make the complainant whole. The order will require, where appropriate: Reinstatement with the same seniority status that the complainant would have had, but for the retaliation; the sum of 200 percent of the amount of back pay and 100 percent of all lost benefits, with interest; and compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621(a)(2) and will be compounded daily. The order will also require the respondent to submit appropriate documentation to the Social Security Administration allocating any back pay award to the appropriate periods. Such order is subject to discretionary review by the Secretary (as provided in Secretary's Order 01–2020 or any successor to that order).

(e) If the ARB determines that the respondent has not violated the law, an order will be issued denying the complaint. If, upon the request of the respondent, the ARB determines that a complaint was frivolous or was brought in bad faith, the ARB may award to the respondent a reasonable attorney fee, not exceeding $1,000. An order under this section is subject to discretionary review by the Secretary (as provided in Secretary's Order 01–2020 or any successor to that order).

Subpart C—Miscellaneous Provisions

§ 1989.111 Withdrawal of complaints, findings, objections, and petitions for review; settlement.

(a) At any time prior to the filing of objections to the Assistant Secretary's findings and/or preliminary order, a complainant may withdraw the complaint by notifying OSHA, orally or in writing, of the withdrawal. OSHA then will confirm in writing the complainant's desire to withdraw and determine whether to approve the withdrawal. OSHA will notify the parties (or each party's legal counsel if the party is represented by counsel) of the approval of any withdrawal. If the complaint is withdrawn because of settlement, the settlement must be submitted for approval in accordance with paragraph (d) of this section. A complainant may not withdraw the complaint after the filing of objections to the Assistant Secretary's findings and/or preliminary order.

(b) The Assistant Secretary may withdraw the findings and/or preliminary order at any time before the expiration of the 30-day objection period described in § 1989.106, provided that no objection has been filed yet, and substitute new findings and/or a new preliminary order. The date of the receipt of the substituted findings or order will begin a new 30-day objection period.

(c) At any time before the Assistant Secretary's findings and/or order become final, a party may withdraw objections to the Assistant Secretary's findings and/or order by filing a written withdrawal with the ALJ. If the case is on review with the ARB, a party may withdraw a petition for review of an ALJ's decision at any time before that decision becomes final by filing a written withdrawal with the ARB. The ALJ or the ARB, as the case may be, will determine whether to approve the withdrawal of the objections or the petition for review. If the ALJ approves a request to withdraw objections to the Assistant Secretary's findings and/or order, and there are no other pending objections, the Assistant Secretary's findings and/or order will become the final order of the Secretary. If the ARB approves a request to withdraw a petition for review of an ALJ decision, and there are no other pending petitions for review of that decision, the ALJ's decision will become the final order of the Secretary. If objections or a petition for review are withdrawn because of settlement, the settlement must be submitted for approval in accordance with paragraph (d) of this section.

(d)(1) *Investigative settlements.* At any time after the filing of a complaint, but before the findings and/or order are objected to or become a final order by operation of law, the case may be settled if OSHA, the complainant, and the respondent agree to a settlement. OSHA's approval of a settlement reached by the respondent and the complainant demonstrates OSHA's consent and achieves the consent of all three parties.

(2) *Adjudicatory settlements.* At any time after the filing of objections to the Assistant Secretary's findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the ALJ if the case is before the ALJ, or by the ARB if the ARB has accepted the case for review. If the Secretary has accepted the case for discretionary review, or directed that the case be referred for discretionary review, the settlement must be approved by the Secretary. A copy of the settlement will be filed with the ALJ or the ARB, as appropriate.

(e) Any settlement approved by OSHA, the ALJ, the ARB or the Secretary will constitute the final order of the Secretary and may be enforced in United States district court pursuant to § 1989.113.

§ 1989.112 Judicial review.

(a) Within 60 days after the issuance of a final order for which judicial review is available (including a decision issued by the Secretary upon discretionary review), any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation.

(b) A final order is not subject to judicial review in any criminal or other civil proceeding.

(c) If a timely petition for review is filed, the record of the case, including the record of proceedings before the ALJ, will be transmitted by the ARB or the ALJ, as the case may be, to the appropriate court pursuant to the Federal Rules of Appellate Procedure and the local rules of such court.

§ 1989.113 Judicial enforcement.

Whenever any person has failed to comply with a preliminary order of reinstatement or a final order issued under TFA, including one approving a settlement agreement, the Secretary may file a civil action seeking enforcement of the order in the United States district court for the district in which the violation was found to have occurred. Whenever any person has failed to comply with a preliminary order of reinstatement or a final order issued under TFA, including one approving a settlement agreement, a person on whose behalf the order was issued may file a civil action seeking enforcement of the order in the appropriate United States district court.

§ 1989.114 District court jurisdiction of retaliation complaints.

(a) If the Secretary has not issued a final decision within 180 days of the filing of the complaint, and there is no showing that there has been delay due to the bad faith of the complainant, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States, which will have jurisdiction over such an action without regard to the amount in controversy. Either party shall be entitled to a trial by jury.

(b) A proceeding under paragraph (a) of this section shall be governed by the

same legal burdens of proof specified in § 1989.109.

(c) Within seven days after filing a complaint in federal court, a complainant must file with OSHA, the ALJ, or the ARB, depending on where the proceeding is pending, a copy of the file-stamped complaint. A copy of the complaint also must be served on the OSHA official who issued the findings and/or preliminary order, the Assistant Secretary, and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor.

§ 1989.115 Special circumstances; waiver of rules.

In special circumstances not contemplated by the provisions of these rules, or for good cause shown, the ALJ or the ARB on review may, upon application, and after three days' notice to all parties, waive any rule or issue such orders that justice or the administration of TFA requires.

[FR Doc. 2022–04238 Filed 3–4–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2022–0032]

RIN 1625–AA08

Special Local Regulation; Lake Havasu, Lake Havasu City, AZ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation (SLR) in the navigable waters of Lake Havasu, Arizona during the Lake Havasu Triathlon marine event. This regulation is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and general users of the waterway during the event, which will be held on March 19, 2022. This special local regulation will temporarily prohibit persons and vessels from entering into, transiting through, anchoring, blocking, or loitering within the event area unless authorized by the Captain of the Port San Diego or a designated representative.

DATES: This rule is effective from 8 a.m. to 9 a.m. on March 19, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0032 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander John Santorum, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email *D11MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this special local regulation by March 19, 2022. Therefore, it is impracticable to publish an NPRM because we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. This regulation is necessary to ensure the safety of life on the navigable waters of Lake Havasu during the marine event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because action is needed to ensure the safety of life on the navigable waters of Lake Havasu during the marine event on March 19, 2022.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041 (previously 33 U.S.C. 1236). The Captain of the Port Sector San Diego (COTP) has determined that the large number of swimmers associated with the Lake Havasu Triathlon marine event on March 19, 2022, poses a potential safety concern in the regulated area. This rule is needed to protect persons, vessels, and the marine environment in the navigable waters of Lake Havasu during the marine event.

IV. Discussion of Comments, Changes, and the Rule

This rule establishes a special local regulation from 8 a.m. to 9 a.m. on March 19, 2022. This special local regulation will cover all navigable waters, from surface to bottom, on a predetermined course within Lake Havasu, Arizona beginning at the starting point of the event at Lake Havasu State Park South Beach and proceeding south to the southern entrance to the Bridgewater Channel. The duration of the temporary special local regulation is intended to ensure the safety of participants, vessels, and the marine environment in these navigable waters during the scheduled marine event. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative. The regulatory text provides information on how to contact the COTP or a designated representative for permission to transit the area. When in the regulated area, persons must comply with all lawful orders or directions given to them by the COTP or designated representative. Additionally, the COTP will provide notice of the regulated area through advanced notice via Local Notice to Mariners or by on-scene designated representatives.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the regulated area. The affected portion of the navigable waterway in Lake Havasu will be of very limited duration, and is necessary for

safety of life of participants in the marine event. Moreover, the Coast Guard will issue a Local Notice to Mariners about the regulated area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary special local regulation that will limit access to certain areas within Lake Havasu, from 8 a.m. until 9 a.m. on March 19, 2022. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T11–090 to read as follows:

§ 100.T11–090 Lake Havasu Triathlon, Lake Havasu, Arizona.

(a) *Regulated area.* The regulations in this section apply to the following area: All navigable waters, from surface to bottom, on a pre-determined course within Lake Havasu, Arizona beginning at the starting point of the event at Lake Havasu State Park South Beach and proceeding south to the southern entrance to the Bridgewater Channel.

(b) *Definitions.* As used in this section—

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port San Diego (COTP) in the enforcement of the regulations in this section.

Participant means all persons and vessels registered with the event sponsor as a participants in the marine event.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the Captain of the Port San Diego or their designated representative.

(2) To seek permission to enter, contact the the COTP or a designated representative. They may be contacted by telephone at 619–278–7033. Those in

the regulated area must comply with all lawful orders or directions given to them by the COTP or designated representative.

(3) The COTP will provide notice of the regulated area through advanced notice via Local Notice to Mariners or by on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 8 a.m. until 9 a.m., on March 19, 2022.

Dated: March 1, 2022.

T.J. Barelli,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2022–04703 Filed 3–4–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0060]

Safety Zone, Brandon Road Lock and Dam to Lake Michigan Including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a segment of the Safety Zone, Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, on all waters of the Chicago River (Main Branch) between the N Columbus Drive Bridge and the Franklin-Orleans Street Bridge for the Chicago St. Patrick's Day Parade Dyeing of the River. This action is intended to protect personnel, vessels, and the marine environment from potential hazards created by the event. During the enforcement period listed below, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or a designated representative.

DATES: The regulation in 33 CFR 165.930 will be enforced from 9:30 a.m. through 11:30 a.m. on March 12, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LT James L. Fortin, Waterways Management Division, Marine Safety Unit Chicago, U.S. Coast Guard; telephone: (630) 986–2155, email: *D09-DG-MSUChicago-Waterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a segment of the Safety Zone, Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, listed in 33 CFR 165.930 on all waters of the Chicago River (Main Branch) between the N Columbus Drive Bridge and the Franklin-Orleans Street Bridge for the Chicago St. Patrick's Day Parade Dyeing of the River. This safety zone will be enforced from 9:30 a.m. through 11:30 a.m. on March 12, 2022.

Pursuant to 33 CFR 165.930, all vessels must obtain permission from the Captain of the Port Lake Michigan, or his or her designated on-scene representative to enter, move within, or exit this safety zone during the enforcement times listed in this notice of enforcement. The designation of the Captain of the Port Lake Michigan's on-scene representative need not be in writing. Requests must be made in advance and approved by the Captain of the Port or a designated on-scene representative before transits will be authorized. Approvals will be granted on a case-by-case basis. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan or a designated on-scene representative.

This notice of enforcement is issued under the authority of 33 CFR 165.930, Safety Zone, Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, and 5 U.S.C. 552(a). In addition to this notification of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with notification of this enforcement period via Broadcast Notice to Mariners. The Captain of the Port Lake Michigan or a designated on-scene representative may be contacted via VHF–FM Channel 16 or (414) 747–7182.

Dated: February 28, 2022.

Donald P. Montoro,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2022–04780 Filed 3–4–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF TRANSPORTATION

Great Lakes St. Lawrence Seaway Development Corporation

33 CFR Part 401

RIN 2135–AA51

Seaway Regulations and Rules: Periodic Update, Various Categories

AGENCY: Great Lakes St. Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Great Lakes St. Lawrence Seaway Development Corporation (GLS) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the GLS is amending the joint regulations by updating the Regulations and Rules in various categories. The changes update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; and, Dangerous Cargo. These changes are to clarify existing requirements in the regulations.

DATES: This rule is effective on March 21, 2022.

ADDRESSES: *Docket:* For access to the docket to read background documents or comments received, go to *http://www.Regulations.gov;* or in person at the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Carrie Mann Lavigne, Chief Counsel, Great Lakes St. Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662; 315/764–3200.

SUPPLEMENTARY INFORMATION: The Great Lakes St. Lawrence Seaway Development Corporation (GLS) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the GLS is amending the joint regulations by updating the Regulations and Rules in various categories. The changes update the following sections of the

Regulations and Rules: Condition of Vessels; Seaway Navigation; and, Dangerous Cargo. These changes are to clarify existing requirements in the regulations.

Regulatory Notices: Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.Regulations.gov.*

The joint regulations will become effective in Canada on March 21, 2022. For consistency, because these are joint regulations under international agreement, and to avoid confusion among users of the Seaway, the GLS finds that there is good cause to make the U.S. version of the amendments effective on the same date.

Regulatory Evaluation

This regulation involves a foreign affairs function of the United States and therefore, Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of the human environment.

Federalism

The Corporation has analyzed this rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this proposal does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

Accordingly, the Great Lakes St. Lawrence Seaway Development Corporation amends 33 CFR part 401 as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—Regulations

■ 1. The authority citation for subpart A of part 401 is revised to read as follows:

Authority: 33 U.S.C. 983(a) and 984(a)(4), as amended; 49 CFR 1.101, unless otherwise noted.

■ 2. Revise § 401.8 to read as follows:

§ 401.8 Landing Booms.

(a) Vessels of more than 50 m in overall length shall be equipped with at least one adequate landing boom on each side which are to be in compliance with applicable regulations.

(b) Vessel's crews shall be adequately trained in the use of landing booms for the purpose of landing crew ashore.

(c) Vessels with a freeboard less than 2 meters are not required to be equipped with landing booms.

(d) Vessels not equipped with landing booms shall make arrangements with a ''Tie-Up Service'' provider for tie-up and let-go at Seaway Approach walls prior to commencing transit of the Seaway.

(e) Vessels shall have onboard for inspection a copy of the test certificate for each landing boom.

§ 401.10 [Amended]

■ 3. Amend § 401.10 by removing and reserving paragraph (c).

■ 4. Amend § 401.20 by revising paragraph (b)(6) to read as follows:

§ 401.20 Automatic Identification System.

* * * * *

(b) * * *

(6) Computation of AIS position reports using differential GPS corrections from Canadian Coast Guard's maritime Differential Global Position System (DGPS) radio beacon services or Satellite Based Augmentation System (SBAS); or

* * * * *

■ 5. Amend § 401.58 by revising paragraph (b) to read as follows:

§ 401.58 Pleasure craft scheduling.

* * * * *

(b) Every pleasure craft seeking to transit Canadian Locks shall first make a reservation on the Seaway website.

■ 6. Amend § 401.73 by adding a heading to paragraph (a) and revising paragraph (b) to read as follows:

§ 401.73 Cleaning tanks—hazardous cargo vessels.

(a) *Prohibitions.* * * *

* * * * *

(b) *Hot Work Permission.* Permission is granted under the following conditions:

(1) Copy of ship's ''Hot Work Permit'' provided to SLSMC at (*nrerie@seaway.ca* & *nrshipinspectors@seaway.ca*) before welding commences;

(2) Name of company performing the hot work;

(3) Effective fire watch is maintained;

(4) Welding operations shall temporarily cease during ship meets and lockages;

(5) Welding operations shall cease at the direction of a Traffic Controller; and

(6) All sparks and/or flames to be contained on the ship.

* * * * *

■ 7. Amend § 401.75 by revising paragraph (b) to read as follows:

§ 401.75 Payment of tolls.

* * * * *

(b) Fees, established by agreement between Canada and the United States, and known as the St. Lawrence Seaway Schedule of Tolls, shall be paid by pleasure crafts for the transits of each Canadian lock using the pleasure craft reservation system available on the Seaway website. At U.S. locks, the fee is paid in U.S. funds or the pre-established equivalent in Canadian funds or through payment via Pay.gov on the Seaway website.

* * * * *

Issued at Washington, DC, under authority delegated at 49 CFR part 1.101.

Carrie Lavigne,

Chief Counsel.

[FR Doc. 2022–04218 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–61–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2020–0167; FRL–8989–02–R6]

Air Plan Approval; New Mexico; Clean Air Act Requirements for Emissions Inventory and Emissions Statement for Nonattainment Area for the 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) submitted by the State of New Mexico to meet the Emissions Inventory (EI), and Emissions Statement (ES) requirements of the Federal Clean Air Act (CAA or the Act) for the Sunland Park ozone nonattainment area for the 2015 8-hour ozone national ambient air quality standards (NAAQS). EPA is approving this action pursuant to section 110 and part D of the CAA and EPA's regulations.

DATES: This final rule is effective on April 6, 2022.

ADDRESSES: The EPA has established a docket for this action, Docket No. EPA–R06–OAR–2020–0167 All documents in the docket are listed on the *https://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Nevine Salem, EPA Region 6 Office, Infrastructure and Ozone Section, 214–665–7222, *salem.nevine@epa.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID–19. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

On October 15, 2021 (86 FR 57388), the EPA published a Notice of Proposed Rulemaking (NPRM) for the State of New Mexico, for the approval of the State's 2017 base year emission inventories and emissions statement requirements for the Sunland Park Sunland Park marginal ozone nonattainment area for the 2015 ozone NAAQS. The background for this action and rational for EPA's proposed action are explained in the NPRM and will not be restated here. One anonymous comment was received during the public comment period which ended on November 15, 2021.

II. Response to Comments

Comment: The commenter believes that New Mexico is doing its best in implementing regulations promulgated by the EPA under the CAA. The commenter inquired about EPA's procedure for enforcing the CAA regulations, and expressed concern that the clean air policy would fail without the collective actions of other states.

Response: We appreciate the commenter's perspective that New Mexico is doing its best in implementing CAA regulations promulgated by the EPA. However, the issues raised by the commenter are outside the scope of this action. This action is limited to the approval of the Emissions Inventory and Emissions Statement requirements for the 2015 8-hour ozone NAAQS submitted by the state of New Mexico, for the Sunland Parkozone nonattainment area, New Mexico, under the CAA.

The CAA establishes a comprehensive program for controlling and improving the nation's air quality through state and federal regulation. This comprehensive program is based on cooperative federalism that divides responsibilities between the EPA and the states. Under the CAA, the EPA establishes the national air quality standards, and the states are primarily responsible for implementing those standards, with oversight from EPA.

Upon the promulgation or revision of a NAAQS by the EPA, each state is required to submit a state implementation plan (SIP). The SIP provides the ''implementation, maintenance, and enforcement'' of the NAAQS, and must ''contain adequate provisions'' prohibiting air emissions in amounts that contribute significantly to nonattainment or that interfere with the maintenance of the NAAQS in neighboring states. 42 U.S.C. 7410(a)(2)(D)(i)(I). Where a state fails to submit all or a portion of a SIP as required by the CAA, or where the EPA disapproves a SIP as not meeting the CAA requirements, the EPA will assert federal oversight authority and develop a federal implementation plan (FIP) for the state. It may also develop a FIP for tribal lands if a tribe elects not to develop their own implementation plan, as appropriate.

The applicable state and the EPA both have authority to bring enforcement actions for violations of federally-approved SIPs. Members of the public can also file citizen suits under the CAA to address violations of SIPs. For more details on Air Quality Implementation Plans please visit *https://www.epa.gov/air-quality-implementation-plans.*

III. Final Action

EPA is approving the New Mexico SIP revisions submitted on September 10, 2020 to address the emissions inventory and emissions statement requirements for the Sunland Park area for the 2015 ozone NAAQS. The emissions inventory we are approving is listed in Table 1 of the NPRM. We are approving the emissions inventory because it contains a comprehensive, accurate, and current inventory of actual emissions for all relevant sources in accordance with CAA sections 172(c)(3) and 182(a)(1) requirements. We are also approving the New Mexico emission statement because it includes the approved provision addressing the emission statement requirement in CAA section 182(a)(3)(B). New Mexico adopted the emission inventories consistent with the requirement for reasonable public notice and opportunity for a public hearing.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735,

October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a Start Printed Page 11875 copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 6, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

Dated: February 28, 2022.

Earthea Nance,

Regional Administrator, Region 6.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart GG—New Mexico

■ 2. In § 52.1620 (e), the table titled ''EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the New Mexico SIP'' is amended by adding the entry ''2017 Emissions Inventory and Emissions Statement for the 2015 Ozone NAAQS'' at the end of the table to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE NEW MEXICO SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
* *	* *	*	*	*
2017 Emissions Inventory and Emissions Statement for the 2015 Ozone NAAQS.	Sunland Park ozone nonattainment area.	9/20/2020	3/7/2022 [Insert **Federal Register** citation].	

[FR Doc. 2022–04525 Filed 3–4–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 281

[EPA–R09–UST–2022–0197; FRL–9571–01–R9]

Approval of State Underground Storage Tank Program Revisions; Hawaii

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of final determination on the State of Hawaii's application for final approval.

SUMMARY: Hawaii has applied to the Environmental Protection Agency (EPA) for updated approval of changes made to its Underground Storage Tank Program under the Resource Conservation and Recovery Act, as amended, since the previous approval of Hawaii's Underground Storage Tank Program in September 2002. The EPA has reviewed Hawaii's application and

has determined that these changes satisfy all requirements needed to qualify for the requested updated approval. The EPA is correcting one citation identified as a result of public comment received on the proposal to approve Hawaii's Underground Storage Tank Program that was published in August 2020. All other aspects of the August 2020 proposed State Program Approval remain the same. Therefore, the EPA is granting final approval to the State of Hawaii to operate its Underground Storage Tank Program for petroleum and hazardous substances.

DATES: This final approval is effective at 1:00 p.m. HST March 7, 2022.

FOR FURTHER INFORMATION CONTACT: Lyndsey Tu, Underground Storage Tanks Program Office, U.S. EPA, Region 9, *Tu.Lyndsey@epa.gov,* (415) 972–3269.

SUPPLEMENTARY INFORMATION:

I. Approval of Revisions to Hawaii's Underground Storage Tank Program

A. Background

Section 9004 of the Resource Conservation and Recovery Act, as amended, (RCRA), 42 U.S.C. 6991c, authorizes the EPA to approve a State Underground Storage Tank (UST) Program to operate in the State in lieu of the Federal UST program, subject to the authority retained by EPA in accordance with RCRA. Program approval may be granted by EPA pursuant to RCRA Section 9004(b), if EPA finds that the State program: (1) Is ''no less stringent'' than the Federal program for the seven elements set forth at RCRA Section 9004(a)(1) through (7); (2) includes the notification requirements of RCRA Section 9004(a)(8); and (3) provides for adequate enforcement of compliance with UST standards of RCRA Section 9004(a). Note that RCRA Sections 9005 (on information-gathering) and 9006 (on Federal enforcement) by their terms apply even in states with programs approved by EPA under RCRA Section 9004. Thus, EPA retains its authority under RCRA Sections 9005 and 9006, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the approved state analogues to these provisions.

B. What decisions has EPA made in this approval?

On October 8, 2018, in accordance with 40 CFR 281.51(a), Hawaii submitted a complete program revision application seeking approval for its UST program revisions corresponding to the EPA final rule published on July 15, 2015 (80 FR 41566), which finalized revisions to the 1988 UST regulations and to the 1988 state program approval regulations. As required by 40 CFR 281.20, the State submitted the following: A transmittal letter from the Governor requesting approval, a description of the program and operating procedures, a demonstration of the State's procedures to ensure adequate enforcement, a Memorandum of Agreement outlining the roles and responsibilities of EPA and the implementing agency, a statement of certification from the Attorney General, and copies of all relevant State statutes and regulations. EPA reviewed the Hawaii application for updated UST Program approval and, on August 14, 2020 (85 FR 49611), issued a tentative determination that the revisions to Hawaii's UST program are equivalent to, consistent with, and no less stringent than the corresponding Federal requirements in subpart C of 40 CFR part 281, and that the Hawaii program provides for adequate enforcement of compliance (40 CFR 281.11(b)). EPA received public comment on its tentative determination and, as a result, has made one correction to the scope of the approval as proposed, which is described in Section I.C. of this document, below. Therefore, EPA grants Hawaii approval to operate its UST program with the changes described in the program revision application as outlined in EPA's August 14, 2020 tentative determination and amended by this notification. Specifically, as noted below, EPA finds that Hawaii Administrative Rules (HAR) Section 11–280.1–67 is equivalent to and part of the approved Hawaii UST program, but HAR Section 11–280.1–65.1 is broader in scope than the Federal UST program and is not a part of the approved Hawaii UST program.

C. Significant Public Comments and Responses

EPA received one significant public comment on its proposed approval of the updated Hawaii UST program within the public comment period.

Comment: In the ''Authorization of Underground Storage Tank Program Revisions: Hawaii'' under H. ''Where are the State's revised rules different from the Federal rules,'' the text reads: ''[Hawaii Administrative Rules (HAR)] Section 11–280.1–67 requires public notification in the event of a confirmed release. This requirement is broader in scope than the Federal UST program, which only requires public notification when an implementing agency requires a corrective action plan.'' This is not correct. HAR Section 11–280.1–67 is titled ''Public participation for corrective action plans'' and does NOT require public notification in the event of a confirmed release, but instead only when a corrective action plan is required. This is in line with EPA's rules.

Response: EPA agrees with this comment. HAR Section 11–280.1–67 does not require public notification in the event of a confirmed release but does require public participation when a corrective action plan is required. This aspect of Hawaii's program is not broader in scope than the Federal program and is in alignment with EPA's rules. However, in its August 2020 proposal, EPA cited HAR Section 11–280.1–67 incorrectly and should have cited HAR Section 11–280.1–65.1 instead. HAR Section 11–280.1–65.1 requires notification of members of the public directly affected by a confirmed release. See also Hawaii revised statute 342L–35(4). There is no counterpart in the Federal regulations for HAR Section 11–280.1–65.1. As a result, this final approval includes HAR Section 11–280.1–67, which has a counterpart at 40 CFR 280.67. However, this final approval does not include HAR Section 11–280.1–65.1, which EPA finds is broader in scope than the Federal program.

Additionally, EPA received a set of comments outside of the public comment period. This set of comments was submitted by email to the Underground Storage Tanks Program at EPA Region 9 shortly after the comment period closed. The full text of this set of comments is included as a part of this docket to ensure the public has access to this set of comments as part of the record for this decision. The comments, which are focused on the State's and EPA's underlying requirements for field-constructed tanks, do not implicate EPA's decision whether to approve Hawaii's revised UST Program. UST State Program Approval is intended for states to obtain the authority to operate their programs in lieu of the Federal program and is not an opportunity to re-open comment on either the underlying Federal or state rules. The public comment period for the 2015 Federal UST regulations closed on April 16, 2012, and the public comment period for the Hawaii UST regulations closed on June 5, 2018.

II. Codification

A. What is codification, and will EPA codify Hawaii's UST program?

Codification is the process of placing citations and references to the state's statutes and regulations that comprise the state's approved UST program into the Code of Federal Regulations. EPA does this by adding those citations and references to the approved state rules in 40 CFR part 282. EPA is not codifying the approval of Hawaii's changes at this time. However, EPA intends to amend 40 CFR part 282, subpart B, to reflect the updated approval of Hawaii's program changes at a later date.

III. Statutory and Executive Order (E.O.) Reviews

This action only applies to Hawaii's UST Program requirements pursuant to RCRA Section 9004 and imposes no requirements other than those imposed by state law. It complies with applicable EOs and statutory provisions as follows:

A. Executive Order 12866 Regulatory Planning and Review, Executive Order 13563: Improving Regulation and Regulatory Review

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action approves state requirements for the purpose of RCRA Section 9004 and imposes no additional requirements beyond those imposed by state law. Therefore, this action is not subject to review by OMB.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because actions such as this approval of Hawaii's revised underground storage tank program under RCRA are exempted under Executive Order 12866. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

C. Unfunded Mandates Reform Act and Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Because this action approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). For the same reason, and because there are no federally recognized Tribes within the State, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

D. Executive Order 13132: Federalism

This action will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves state requirements as part of the State RCRA Underground Storage Tank Program without altering the relationship or the distribution of power and responsibilities established by RCRA.

E. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant, and it does not make decisions based on environmental health or safety risks.

F. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a ''significant regulatory action'' as defined under Executive Order 12866.

G. National Technology Transfer and Advancement Act

Under RCRA Section 9004(b), EPA grants a state's application for approval as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a state approval application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

H. Executive Order 12988: Civil Justice Reform

As required by Section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in taking this action, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

I. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the action in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive order.

J. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). ''Burden'' is defined at 5 CFR 1320.3(b).

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this action approves pre-existing state rules which are at least equivalent to, consistent with, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by state law, and there is no anticipated significant adverse human health or environmental effects, the action is not subject to Executive Order 12898.

L. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801–808, generally provides that, before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. This action is not considered a ''rule'' within the meaning of 5 U.S.C. 804, since it does not substantially affect the rights or

obligations of non-agency parties. However, this action will be effective at 1:00 p.m. HST March 7, 2022, because it is a final approval.

Authority: This action is issued under the authority of Sections 2002(a), 7004(b), and 9004, 9005 and 9006 of RCRA, also known as the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6974(b), and 6991c, 6991d, and 6991e.

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous substances, Petroleum, Reporting and recordkeeping requirements, State program approval, Underground storage tanks.

Dated: February 26, 2022.

Martha Guzman Aceves,

Regional Administrator, Region 9.

[FR Doc. 2022–04723 Filed 3–4–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 393

[Docket No. FMCSA–2021–0037]

RIN 2126–AC42

Parts and Accessories Necessary for Safe Operation; Authorized Windshield Area for the Installation of Vehicle Safety Technology

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: FMCSA amends the Federal Motor Carrier Safety Regulations (FMCSRs) to increase the area on the interior of commercial motor vehicle (CMV) windshields where certain vehicle safety technology devices may be mounted. In addition, FMCSA adds items to the definition of *vehicle safety technology.* This final rule responds to a rulemaking petition from Daimler Trucks North America (DTNA).

DATES: Effective May 6, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Policy, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–0676; *Luke.Loy@dot.gov.* If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION: FMCSA organizes this final rule as follows:

I. Availability of Rulemaking Documents

To view any documents mentioned as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2021-0037/document* and choose the document to review. To view comments, click this final rule, then click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations at U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Executive Summary

A. Purpose and Summary of the Regulatory Action

Section 393.60(e)(1)(i) of the FMCSRs prohibits obstruction of the driver's field of view by devices mounted at the top of the windshield. Antennas and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield and must be outside the driver's sight lines to the road and highway signs and signals.

Section 393.60(e)(1)(i) does not apply to vehicle safety technologies, as defined in § 393.5, that include ''a fleet-related incident management system, performance or behavior management system, speed management system, forward collision warning or mitigation system, active cruise control system, and transponder.'' Section 393.60(e)(1)(ii) requires devices with vehicle safety technologies to be mounted (1) not more than 100 mm (4 inches) below the upper edge of the area swept by the windshield wipers, or (2) not more than 175 mm (7 inches) above the lower edge of the area swept by the windshield wipers, and (3) outside the driver's sight lines to the road and highway signs and signals.

The Agency modifies § 393.60(e)(1)(ii) to increase from 100 mm (4 inches) to 216 mm (8.5 inches) the distance below the upper edge of the area swept by the windshield wipers within which vehicle safety technologies may be mounted. The Agency also amends § 393.5 by revising the definition of *vehicle safety technology* to add technologies that had been granted temporary exemptions from § 393.60(e). The amendments do not impose new or more stringent requirements, but simply codify the temporary exemptions granted pursuant to 49 CFR part 381 that allow the use of the devices/technologies in locations that would previously have been a violation of § 393.60(e)(1). More importantly, the amendments do not mandate the use of any devices/technologies, but simply permit their voluntary use while mounted in a location that maximizes their effectiveness without impairing operational safety.

B. Costs and Benefits

The Agency expects that the final rule will generate cost savings for both industry and the Federal Government by reducing the overall time burden associated with the exemption request and approval process associated with 49 U.S.C. 31315(b) and the implementing regulations under 49 CFR part 381. The Agency estimates this final rule will result in total annualized cost savings of $10,903 at 3 percent and 7 percent discount rates, respectively.

III. Abbreviations

ANPRM Advance Notice of Proposed Rulemaking
BLS U.S. Bureau of Labor Statistics
CE Categorical Exclusion
CIB Crash Imminent Braking
CMV Commercial Motor Vehicle
DOT Department of Transportation
DBS Dynamic Brake Support
DTNA Daimler Trucks North America
ECEC Employer Costs for Employee Compensation
ELD Electronic Logging Devices
E.O. Executive Order
FAST Act Fixing America's Surface Transportation Act
FMCSA Federal Motor Carrier Safety Administration
FMCSRs Federal Motor Carrier Safety Regulations

FR Federal Register
GS General Schedule
GPS Global Positioning System
NEPA National Environmental Policy Act of 1969
NPRM Notice of Proposed Rulemaking
OMB Office of Management and Budget
PIA Privacy Impact Assessment
PII Personally Identifiable Information
Secretary Secretary of Transportation
U.S.C. United States Code

IV. Legal Basis for the Rulemaking

This final rule is based on the authority of the Motor Carrier Act, 1935 (1935 Act), the Motor Carrier Safety Act of 1984 (1984 Act), and the Fixing America's Surface Transportation (FAST) Act.

The 1935 Act, as amended, provides that ''[t]he Secretary of Transportation may prescribe requirements for—(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours-of-service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.'' (49 U.S.C. 31502(b)).

The 1984 Act provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary to ''prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles. At a minimum, the regulations shall ensure that—(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate vehicles safely . . . ; (4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators; and (5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title.'' (49 U.S.C. 31136(a)).

Section 5301 of the FAST Act directs FMCSA to exempt voluntary mounting of a vehicle safety technology on a windshield if that technology is likely to achieve a level of safety that is equivalent to or greater than the level of safety that would be achieved without the exemption (Pub. L. 114–94, 129 Stat. 1312, 1543, Dec. 4, 2015). Section 5301(c) also specifies that any regulatory exemption for windshield-mounted technologies in effect on the date of enactment of the FAST Act ''shall be considered likely to achieve a level of safety that is equivalent to or greater than the level of safety that would be achieved absent an exemption. . . .''

This final rule is based in part on the 1935 Act, which allows the Agency to regulate the ''safety of operation and equipment'' of a motor carrier and the ''standards of equipment'' of a motor private carrier. The requirements of 49 U.S.C. 31136(a)(1), (2), and (4) of the 1984 Act are also applicable to this rulemaking action. The Agency amends 49 CFR part 393 to allow certain safety equipment to be mounted within the area of the windshield swept by the windshield wipers. The Agency believes that these changes will be welcomed by motor carriers and drivers alike and that coercion to violate these revised provisions, which is prohibited by § 31136(a)(5), will not be an issue. The final rule does not involve the physical condition of drivers under § 31136(a)(3).

This final rule rests in part on the intent of Congress expressed in section 5301 of the FAST Act to exempt safety equipment mounted within the swept area of windshields, provided such devices do not degrade operational safety.

FMCSA must consider the ''costs and benefits'' of any proposal before promulgating regulations (49 U.S.C. 31136(c)(2)(A), 31502(d)).

V. Discussion of Proposed Rulemaking

A. Proposed Rulemaking

On July 6, 2021, FMCSA published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) (Docket No. FMCSA–2021–0037, 86 FR 35449) titled ''Parts and Accessories Necessary for Safe Operation; Authorized Windshield Area for the Installation of Vehicle Safety Technology.'' The NPRM proposed to modify 49 CFR 393.60(e) to allow certain vehicle safety technologies to be mounted on the interior of the windshield of a CMV, within a defined portion of the swept area of the windshield. The NPRM also proposed to modify the definition of *vehicle safety technology* in 49 CFR 393.5 to add technologies that had been granted temporary exemptions from § 393.60(e) since the 2016 final rule.

B. Comments and Responses

1. Responses to Questions Posed in NPRM

The comment period closed on August 5, 2021. The following 17 parties submitted comments: American Trucking Associations (ATA); Car Couriers Inc.; Daimler Trucks North America LLC (DTNA); EROAD; Fastfreight Express; Lidar Coalition; Lytx, Inc.; Motor & Equipment Manufacturers Association (MEMA); Netradyne, Inc.; Omnitracs, LLC and SmartDrive Systems; Owner-Operator Independent Drivers Association (OOIDA); Samsara Inc.; Truck and Engine Manufacturers Association (EMA); United Motorcoach Association (UMA); ZF North America; and two private citizens.

To assist in development of the proposed regulatory revisions, the Agency requested responses to two specific questions.

Question 1: Does the definition of *vehicle safety technology* need to be expanded further to address other potential technologies and/or multifunction devices such as electronic logging devices that incorporate technologies such as Global Positioning Systems (GPS) that either require placement in the approximate middle of the CMV windshield or would benefit driver safety by not diverting the CMV driver's eyes from the road and would be subject to the positioning requirements of § 393.60(e)(1)?

Responses: Most commenters supported the proposed definition of *vehicle safety technology* from the NPRM. Some commenters added that the proposed definition does not need to be expanded further and should be finalized as written.

Some commenters stated that the proposed definition of *vehicle safety technology* provides adequate flexibility by not restricting the definition to the listed safety technology examples. DTNA requested FMCSA clarify that the list of technologies in the definition is not exclusive. DTNA stated that this clarification could be made by revising the definition of *vehicle safety technology* to read, in part, ''Examples of vehicle safety technology systems and devices include, but are not limited to . . .'' and ''Vehicle safety technology includes but is not limited to. . . .'' DTNA stated that this change to the definition would clarify that the list is not all-encompassing, allow for multi-function devices, and prevent the need for exemption requests in the future for emerging technologies, while still ensuring that the covered technologies would be limited to those that have an impact on and promote vehicle safety.

Lidar Coalition proposed revising the first sentence of the definition of *vehicle safety technology* to read as follows:

Vehicle safety technology includes systems, components, and items of

equipment used to assist in managing any aspect of the dynamic driving task (as defined in SAE J3016), or improve the safety of drivers, occupants, and other road users (such as pedestrians or cyclists).

Lidar Coalition stated that this revision would focus the definition on Advanced Driver Assistance System technology and broaden the potential beneficiaries of such technology to include all road users.

ATA agreed with the proposed definition and stated that FMCSA should continue to update the definition of *vehicle safety technology* in the future after evaluating new devices with sound data demonstrating safety performance at and above the current standard.

Some commenters expressed general support for adding GPS and Electronic Logging Device (ELD) systems to the definition of *vehicle safety technology,* stating that these devices enhance safety. A few commenters supported the addition of GPS devices to the definition of *vehicle safety technology* so those devices can be positioned closer to the driver's line of sight and the drivers do not need to look away from the road to view them. Some commenters stated that ELDs do not need to be mounted on windshields for the operation of the device and that such placement would cause an unnecessary distraction. A few commenters stated that GPS and ELD systems may be integrated with other devices listed in the definition of *vehicle safety technology* that could be placed on the windshield and therefore needed to be included in the definition.

The Lidar Coalition supported inclusion of lidar in the proposed definition, stating that such systems will provide multiple safety benefits when mounted on the interior of windshields.

MEMA stated that the windshield space should be prioritized for safety systems that require a clear and clean windshield to operate, such as a forward-looking camera, and not systems that can function from other positions, such as a GPS unit.

OOIDA expressed concern that the proposed definition of *vehicle safety technology* includes some technologies that are proven to increase the likelihood of crashes or need more research to determine their effect on vehicle safety, such as speed management systems, automatic emergency braking (AEB) systems, and equipment being deployed on autonomous vehicles. OOIDA stated that FMCSA should not mandate use of these technologies.

UMA commented that some States may have adopted laws that would conflict with the proposed definition of *vehicle safety technology* and provided an example of a California law that would be in conflict with the proposed definition. The California law cited by UMA states that a GPS device ''may be mounted in a seven-inch square in the lower corner of the windshield farthest removed from the driver or in a five-inch square in the lower corner of the windshield nearest to the driver'' and a video event recorder ''may be mounted in a seven-inch square in the lower corner of the windshield farthest removed from the driver, in a five-inch square in the lower corner of the windshield nearest to the driver and outside of an airbag deployment zone, or in a five-inch square mounted to the center uppermost portion of the interior of the windshield.'' UMA requested that FMCSA ensure regulations integrate with such State laws or address the preemptive intention of the final rule.

FMCSA response: This final rule adopts the changes proposed in the NPRM. It is consistent with the following previously issued Agency actions permitting the placement of vehicle safety technology devices on CMVs outside the driver's sight lines to the road, and highway signs and signals: Bendix Commercial Vehicle Systems, LLC 86 FR 17877 (Apr. 6, 2021), Netradyne, Inc. 85 FR 82575 (Dec 18, 2020), J.J. Keller & Associates, Inc. 85 FR 75106 (Nov. 24, 2020), Samsara Networks, Inc. 85 FR 68409 (Oct. 28, 2020), Nauto Inc. 85 FR 64220 (Oct. 9, 2020), Lytx Inc. 85 FR 30121 (May 21, 2020), Navistar Inc. 84 FR 64952 (Nov. 25, 2019), SmartDrive System, Inc. 84 FR 15284 (Apr. 15, 2019), Daimler Trucks North America LLC 83 FR 4543 (Jan. 31, 2018), and Hino Motors Manufacturing U.S.A. 82 FR 36182 (Aug. 3, 2017). All of the temporary exemptions were granted for devices that meet the definition of *vehicle safety technologies* except for the GPS device identified in the Traditional Trucking Corp. exemption (83 FR 42552, Aug. 22, 2018). The Agency also acknowledges that many devices such as ELDs may include GPS technology. Under the final rule, any device that incorporates GPS is included in the definition of *vehicle safety technology.*

When issuing the previous exemptions, the Agency asked interested parties to provide FMCSA with any information demonstrating that motor carriers operating CMVs equipped with vehicle safety technologies are not achieving the requisite statutory level of safety. FMCSA has not received any information to that effect.

As noted in the NPRM, the proposed amendment would not require the use of any devices or technologies but would simply permit their voluntary use when mounted in a location that maximizes their effectiveness without impairing operational safety. FMCSA is unaware of any evidence showing that installation of other vehicle safety technologies mounted on the interior of the windshield has resulted in any degradation in safety.

Regarding OOIDA's concern about speed management and AEB systems, FMCSA sees no reason to remove ''speed management systems'' from the definition of *vehicle safety technology.* The definition has included ''speed management systems'' since it was originally added to 49 CFR 393.5 (81 FR 65568, Sep. 23, 2016). In the absence of data to support OOIDA's claims that these technologies are proven to increase the likelihood of crashes or need more research to determine their effect on vehicle safety, FMCSA sees no reason to revisit those technologies inclusion in the definition. As to AEB, FMCSA notes that section 393.5 continues to include ''forward collision warning or mitigation system'' as one example of vehicle safety technology excepted from the windshield obstruction prohibition in section 393.60(e). While AEB was included in the definition proposed in the petition for rulemaking, section 23010 of the Infrastructure Investment and Jobs Act (Pub. L. 117–56, Nov. 15, 2021) requires the National Highway Traffic Safety Administration (NHTSA) to complete a rulemaking on AEB and FMCSA to complete a companion rulemaking. AEB technology ultimately might or might not require placement within the swept area of the windshield wipers. Under the circumstances, the Agency has decided that it would be premature to address AEB in this final rule. Additionally, the NPRM did not propose, and this final rule does not require, installation of these technologies.

States that accept Motor Carrier Safety Assistance Program (MCSAP) funds from FMCSA must adopt laws or regulations compatible with the rules in 49 CFR parts 390–397 within 3 years of the effective date of a new rule (49 CFR 350.335(a)(2)) or risk the loss of such funds. That MCSAP requirement would apply to States that have regulations on the location of safety technologies in CMV windshields inconsistent with this final rule.

Question 2: Would the proposed position of allowable vehicle safety technologies (8.5 inches below the upper and 7 inches above the lower edge of the swept area of the

windshield) be sufficient for current and developing devices?

Responses: Most commenters supported the dimensions proposed in the NPRM as sufficient for current and developing devices. Some commenters stated that existing technologies have been placed within the dimensions proposed in the NPRM, under previous exemptions, without obstructing the driver's view or causing any adverse safety impacts.

A few commenters stated that devices placed within the dimensions proposed in the NPRM could obstruct the driver's view of pedestrians, cars, and buildings. Some argued that the NPRM fails to account for drivers of different heights and that taller drivers are more likely to have their view obstructed by safety devices in the proposed areas of the windshield. Fastfreight Express provided pictures showing how safety devices on the windshield obstructed the view of cars and buildings.

ATA stated that devices on the windshield could require more or less physical space on the windshield in the future depending on how technologies develop, but that these changes should not be incompatible with the proposal.

A few commenters stated that the proposed position of allowable vehicle safety technologies might not be sufficient for some vehicle types covered by the regulations, such as tractors with split windshields, refuse trucks, motorcoaches, over-the-road-buses, and school buses.

UMA questioned whether limiting the number of devices on the windshield is appropriate.

FMCSA response: FMCSA has granted temporary exemptions that allow safety technologies to be placed 8.5 inches below the upper and 7 inches above the lower swept area of the windshield wipers, all without objection from commenters. FMCSA acknowledges the concerns expressed by several commenters that the sightlines of taller drivers could be obstructed by safety devices mounted high on the windshield. Drivers currently deal with a variety of visual obstructions from the seating position, including the cab's A pillars on each side of the windshield, the sun visor (when pulled down), and the external mirrors (which may be larger than the minimum size required by NHTSA). All of these obstructions are legal, and drivers adapt by moving their upper body and head to obtain a clear sightline to their surroundings. FMCSA has received no information that these obstructions or the safety devices placed in the swept area of windshields under previously granted temporary exemptions have created visual obstructions that cannot be addressed by the driver's routine movements of the head or upper body. Regarding the UMA comment on limiting the number of devices on the windshield, the Agency has not received information from previously granted temporary exemptions that a limitation on the number of devices is necessary and therefore declines to make that change in this final rule.

VI. Changes From the NPRM

The Agency is making one change to this final rule from the NPRM. The Agency removes ''automatic emergency braking,'' from the definition for *vehicle safety technology.*

VII. Section-by-Section Analysis

This section-by-section analysis describes the changes in numerical order.

A. Section 393.5 Definitions

The definition for *vehicle safety technology* is revised by adding more examples of vehicle safety technologies to those listed in the definition.

B. Section 393.60 Glazing in Specified Openings

This section is revised by replacing ''100 mm (4 inches)'' with ''216 mm (8.5 inches)'' in paragraph (e)(1)(ii)(A). Additionally, a new paragraph (e)(1)(ii)(C) is added to read ''Outside the driver's sight lines to the road and highway signs and signals.''

VIII. Regulatory Analyses

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA has considered the impact of this notice of rulemaking under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, and DOT's regulatory policies and procedures. The Office of Information and Regulatory Affairs (OIRA) determined that this rulemaking is not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Accordingly, the Office of Management and Budget (OMB) has not reviewed it under that E.O.

As stated previously under our discussion of public comments, we received 17 comments. Thirteen of these comments supported increasing the area within which certain vehicle safety technology devices may be mounted on the interior of the CMV windshields and the Agency proposal to add items to the definition of *vehicle safety technology.*

There are two differences in this regulatory analysis from the regulatory analysis in the NPRM that have a quantified monetary impact. The NPRM used the most up-to-date wage data then available to estimate cost savings to (1) motor carrier companies that would have to file fewer periodic exemption requests, and (2) the Federal Government by reducing the volume of exemption requests to be reviewed and processed. More up-to-date wage data are now available and utilized for this final rule. Other than these two modifications, there are no substantive changes to the requirements and calculations originally proposed in the NPRM.

Baseline for the Analysis

The mounting of devices on the interior and within the swept area of the windshield is prohibited under 49 CFR 393.60(e), unless they are vehicle safety technologies. FMCSA has authority under 49 U.S.C. 31315(b) to grant exemptions from certain parts of the FMCSRs. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request. FMCSA notes that the burden associated with preparing an exemption request is not included in a currently approved information collection request (ICR), and the Agency is pursuing completion of that ICR outside of this rulemaking.

As originally enacted, 49 U.S.C. 31315(b) allowed an exemption from a regulation (and a renewal) for no longer than 2 years from its approval date. Section 5206(a)(3) of the FAST Act amended section 31315(b) to allow an exemption to be granted for no longer than 5 years and to be renewed, upon request, for subsequent periods no longer than 5 years. 49 CFR 381.300(b).

Section 393.60(e)(1)(i) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted on the interior of the windshield. Antennas and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield, and outside the driver's sight lines to the road and highway signs and signals. Section 393.60(e)(1)(i) does not apply to vehicle safety technologies, as defined in 49 CFR 390.5, including ''a fleet-

related incident management system, performance or behavior management system, speed management system, lane departure warning system, forward collision warning or mitigation system, active cruise control system, and transponder.'' Section 393.60(e)(1)(ii) requires devices with vehicle safety technologies to be mounted (1) not more than 100 mm (4 inches) below the upper edge of the area swept by the windshield wipers, or (2) not more than 175 mm (7 inches) above the lower edge of the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals.

This final rule revises 49 CFR 393.60 to expand the area where vehicle safety technologies (*e.g.,* lane departure warning systems, forward collision warning or mitigation systems, active cruise control systems, and transponders) may be installed on the interior of windshields of CMVs. The final rule will generate cost savings for both industry and government and will achieve a level of safety equivalent to, or greater than, the level achieved by the current regulation.

In table 1, we show a summary of the impacts of the final rule. As a result of the previously discussed changes between this regulatory analysis and the NPRM, the projected cost savings to industry and the Federal government have increased. The annualized and 10-year cost savings to industry, both discounted 7 percent, increased approximately 9 percent from the NPRM estimates of $568 and $3,992 to $621 and $4,361, respectively. The annualized and 10-year cost savings to the Federal government, both discounted 7 percent, increased approximately 1 percent, from the NPRM estimates of $10,137 and $71,197 to $10,282 and $72,214, respectively. As a result, the aggregated annual and 10-year cost savings for both the private sector and the Federal government, discounted at 7 percent, increased approximately 2 percent, from $10,705 and $75,189 to $10,903 and $76,575, respectively.

TABLE 1—SUMMARY OF THE IMPACTS OF THIS FINAL RULE

Category	Summary
Applicability	Revisions to 49 CFR 393.60 to expand the area where vehicle safety technologies may be installed on the interior windshield of CMVs.
Affected Population	Potentially, all CMVs, as defined in 49 CFR 390.5.
Costs	There will be no costs to industry or the Federal Government.
Industry Costs Savings ($, 7 percent discount rate).	10-year: $4,361, Annualized: $621.
Federal Government Cost Savings ($, 7 percent discount rate).	10-year: $72,214, Annualized: $10,282.
Total Cost Savings ($, 7 percent discount rate)	10-year: $76,575, Annualized: $10,903.
Benefits	This final rule will provide a greater available area for the voluntary deployment of windshield-mounted safety technologies which have the potential to reduce fatalities, injuries, and property damages while maintaining a level of safety equivalent to, or greater than, the level achieved by the current regulation.

Cost, Cost Savings, and Benefits

This final rule makes two changes to the Parts and Accessories Necessary for Safe Operation regulations in 49 CFR part 393, subpart A and subpart D.

Under the existing § 393.5 Definitions, *vehicle safety technology* includes a fleet-related incident management system, performance or behavior management system, speed management system, lane departure warning system, forward collision warning or mitigation system, active cruise control system, and transponder. Under the final rule, this definition will also include braking warning systems, braking assist systems, driver camera systems, attention assist warning, GPS, and traffic sign recognition. Vehicle safety technology includes systems and devices that contain cameras, lidar, radar, sensors, and/or video.

As a result, vehicle safety technologies will expand to cover new devices and systems and better accommodate the advanced driver assistance technologies. The change will have no cost. Benefits will accrue through improved safety performance of CMVs via prevention or reduction of fatalities, injuries, and property damage. For example, lane departure warning systems are anticipated to prevent accidents involving striking a car in an adjoining lane, which could either involve ''sideswiping'' a vehicle traveling in the same direction or hitting a vehicle traveling in the opposite direction. Section 393.60(e)(1)(ii) notes that the prohibition on obstructions to the driver's field of view in paragraph (e)(1)(i) does not apply to vehicle safety technologies, as defined in § 393.5, that are mounted on the interior of a windshield. The change to § 393.60(e)(1)(ii) expands the area available for mounting vehicle safety technologies on the interior of a windshield. Devices with vehicle safety technologies may be mounted:

- Not more than 216 mm (8.5 inches) below the upper edge of the area swept by the windshield wipers;
- Not more than 175 mm (7 inches) above the lower edge of the area swept by the windshield wipers; and
- Outside the driver's sight lines to the road and highway signs and signals.

The change will have no cost, but will result in an annualized cost savings from reduced application and exemption processing. The cost savings will be $10,903 at both 3 percent and 7 percent discount rates.

Wage Rates

For this analysis, we calculated private sector wages using 2020 wage data from the U.S. Bureau of Labor Statistics (BLS) Occupational Employment Statistics for the Management of Companies and Enterprises (North American Industry Classification System 551100). We used a median hourly wage for Standard Occupational Classification Code 11–2021—Marketing Managers, which is $71.87.[1]

We added a load factor to the industry wages for Marketing Managers using December 2020 wage and total compensation data from the BLS Employer Costs for Employee Compensation (ECEC) survey, which accounts for employee benefits. This load factor represents the total benefits as a percentage of total salary.[2] We multiplied the median hourly wage by the load factor to get the full loaded wage of $103.49.

We utilized Federal Government employee wage rates based on the Office of Personnel Management (OPM) 2020 General Schedule (GS) pay for the DC-MD-VA-WV-PA locality for a GS–15 grade.[3] Using OPM data, we generated an hourly wage for a GS–15 Step 1 grade as $68.38.[4]

OMB publishes an object class analysis of the budget of the U.S. Government.[5] The object class shows that, in 2020, DOT spent $6,602 million in full-time permanent employee compensation and $2,590 million in civilian employee benefits. Based on this, FMCSA estimated a fringe benefit rate of 39.23 percent (2,590/6,602) for FMCSA personnel or $26.82 ($68.38 × 39.23 percent). The fully loaded hourly wage for a GS–15 Step 1 is $95.20 ($68.38 + $26.82).

Costs

Motor carriers, industry technological manufacturers, and drivers will not incur any new costs associated with this final rule. Adopting and using windshield-mounted technologies is purely optional. Those who install and use windshield-mounted technologies will experience no added burdens or costs as a result of this rule.

In CMVs, drivers sit in an elevated position that greatly improves the forward visual field. When FMCSA previously granted exemptions, it found that doing so would likely achieve a level of safety equivalent to, or greater than, the level of safety achieved without the exemption. As described in the NPRM, since issuing the first temporary exemption from § 393.60(e)(1) in 2009, FMCSA is unaware of any crashes that have been attributed to the location of such devices.

The expanded location is expected to keep pace with technological advances and further aid in meeting the statutory requirements of the FAST Act. The expanded area is outside the driver's line of sight to the road, highway signs, and signals.

Cost Savings

We anticipate that this final rule will generate cost savings to (1) motor carrier companies that file fewer exemption requests, and (2) the Federal government by reducing the volume of exemption requests to be reviewed and processed.

Several manufacturers of windshield-mounted technologies have requested exemptions from FMCSA. We estimate that completing each exemption request takes about 2 hours of company time. FMCSA, on average, receives three exemption applications that are impacted by this rule per year. Table 2 provides the 10-year time horizon cost savings stream based on the yearly undiscounted $621 (rounded to the nearest whole dollar) cost savings to industry.[6]

TABLE 2—TOTAL AND ANNUALIZED COST SAVINGS TO INDUSTRY[7]

Year	Total undiscounted costs savings	Total discounted	
		7 Percent	3 Percent
2022	$621	$580	$603
2023	621	542	585
2024	621	507	568
2025	621	474	552
2026	621	443	536
2027	621	414	520
2028	621	387	505
2029	621	361	490
2030	621	338	476
2031	621	316	462
Total	6,210	4,361	5,297
Annualized		621	621

Federal government employees who possess the technical knowledge required to review windshield exemption applications are senior engineers and attorneys at the GS–15 grade. A final approval letter for an exemption is granted by the Associate Administrator at the Senior Executive Service level.[8] We estimate the total time from initial exemption receipt to final approval to be 12 non-consecutive hours. Table 3 provides the 10-year time horizon cost savings stream based on the yearly undiscounted $10,282

[1] *https://www.bls.gov/oes/current/naics4_551100.htm#11-0000* (last accessed Sept. 1, 2021).

[2] We calculate the load factor for wages by dividing total compensation by wages and salaries. For this analysis, we used BLS' ECEC/Management, professional, and related occupations. Using December 2020 data, we divided the total compensation amount of $61.72 by the wage and salary amount of $42.95 to get the load factor of 1.44 ($61.72 divided by $42.95). This data is found in table 9 of the ECEC Historical Listing. Available at *https://www.bls.gov/web/ecec/ececqrtn.pdf* (accessed Sept. 2, 2021)

[3] *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/DCB.pdf.*

[4] *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB.pdf.*

[5] *https://www.govinfo.gov/content/pkg/BUDGET-2022-OBJCLASS/pdf/BUDGET-2022-OBJCLASS.pdf.*

[6] Loaded Hourly wage × Number of Hours × Average number of exemptions ($94.74 × 2 × 3).

[7] (Total Cost Savings in this table may not equal the sum total of yearly cost savings due to rounding in underlying calculations).

[8] The Agency is assuming that an Associate Administrator at the Senior Executive Service level is equivalent to a GS–15 grade for the purpose of this analysis.

(rounded to the nearest whole dollar) cost savings to the Federal government.[9]

TABLE 3—TOTAL AND ANNUALIZED COST SAVINGS TO THE FEDERAL GOVERNMENT [10]

Year	Total undiscounted costs savings	Total discounted	
		7 Percent	3 Percent
2022	$10,282	$9,609	$9,982
2023	10,282	8,980	9,691
2024	10,282	8,393	9,409
2025	10,282	7,844	9,135
2026	10,282	7,331	8,869
2027	10,282	6,851	8,611
2028	10,282	6,403	8,360
2029	10,282	5,984	8,116
2030	10,282	5,593	7,880
2031	10,282	5,227	7,651
Total	102,817	72,214	87,705
Annualized	.....	10,282	10,282

Table 4 provides the total 10-year time horizon cost savings stream based on the yearly undiscounted cost savings of $10,903 (rounded to the nearest whole dollar) for both industry and the Federal government.

TABLE 4—TOTAL COST SAVINGS FOR INDUSTRY AND THE FEDERAL GOVERNMENT [11]

Year	Total undiscounted costs savings	Total discounted	
		7 Percent	3 Percent
2022	$10,903	$10,189	$10,585
2023	10,903	9,523	10,277
2024	10,903	8,900	9,977
2025	10,903	8,318	9,687
2026	10,903	7,773	9,405
2027	10,903	7,265	9,131
2028	10,903	6,790	8,865
2029	10,903	6,345	8,607
2030	10,903	5,930	8,356
2031	10,903	5,542	8,113
Total	109,026	76,575	93,001
Annualized	.....	10,903	10,903

Benefits

The Agency was unable to identify literature that quantified the benefits of increasing the allowable windshield area for the mounting of vehicle safety technologies. In the absence of such analyses, the Agency did not quantify benefits associated with the final rule, though it believes that the rule has the potential to improve the safety of CMV operations.[12] [13] The Agency also finds that CMVs outfitted with vehicle safety technologies under current exemptions do not present an increased safety risk compared to other CMVs.

Discussion of Alternatives

When preparing this final rule, FMCSA considered two alternatives. In this section, we examine how the cost of the proposal would change with each alternative.

Alternative 1

No Action.

Applying a ''no action'' alternative, FMCSA would accept the status quo and not change the current exemption approval requirements. This alternative currently limits the windshield area in which new safety technologies can be mounted to not more than 100 mm (4 inches) below the upper edge of the area swept by the windshield wipers or not more than 175 mm (7 inches) above the lower edge of the area swept by the windshield wipers. This alternative does not favor innovation and technological growth, nor does it reduce the overall burden to industry of applying for, and to the Federal Government of reviewing, exemptions. This alternative would maintain the approximately $10,903 (annualized, 7 percent discount rate) in annual costs associated with the overall exemption request and approval process.

Alternative 2

Preferred Alternative—Revise 49 CFR 393.60 to expand the windshield area where vehicle safety technologies could be installed on CMVs and revise 49 CFR

[9] Loaded Hourly Wage × Number of Hours × Average number of exemptions × Personnel ($95.20 × 12 × 3 × 3).

[10] (Total Cost Savings in this table may not equal the sum total of yearly cost savings due to rounding in underlying calculations).

[11] (Total Cost Savings in this table may not equal the sum total of yearly cost savings due to rounding in underlying calculations).

[12] *https://rosap.ntl.bts.gov/view/dot/4.*

[13] *https://rosap.ntl.bts.gov/view/dot/10.*

393.5 to broaden the definition of vehicle safety technology.

Applying this preferred alternative, FMCSA would increase the allowable windshield area for installation of vehicle safety technologies. This would lead to an estimated $10,705 in annual cost savings without any estimated cost increase or reduction in benefits, as this analysis shows.

B. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801–808), OIRA designated this rule as not a ''major rule,'' as defined by 5 U.S.C. 804(2).[14]

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,[15] requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)). Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses.

The Agency expects that this final rule will not have a significant economic impact on small entities. The final rule will result in cost savings to industry and the Federal government.

FMCSA expects the average costs to manufacturers of windshield-mounted equipment associated with avoiding the need for exemption applications will be reduced by $621 per year (annualized, 7 percent discount rate). We calculate that 100 percent of small equipment manufacturers impacted by this final rule will have a cost savings less than 1 percent of their annual revenue. No small governmental jurisdictions will be impacted by this final rule.

Consequently, I certify that the final action will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this final rule would have a significant economic impact on it, please submit a comment to the docket at the address listed in the **ADDRESSES** section of this preamble. In your comment, explain why you think it qualifies and how and to what degree this final rule would economically affect it.

D. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996,[16] FMCSA wants to assist small entities in understanding this final rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the final rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. The Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $170 million (which is the value equivalent of $100 million in 1995, adjusted for inflation to 2020 levels) or more in any 1 year. Because this final rule will not result in such an expenditure, a written statement is not required. However, FMCSA does discuss the costs and benefits of this final rule in the preamble.

F. Paperwork Reduction Act

This final rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). FMCSA notes that the burden associated with preparing an exemption request is not included in a currently approved information collection request (ICR), and the Agency is pursuing completion of that ICR outside of this rulemaking.

G. E.O. 13132 (Federalism)

A rule has implications for federalism under section 1(a) of E.O. 13132 if it has ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' FMCSA has determined that this rule would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

H. Privacy

The Consolidated Appropriations Act, 2005,[17] requires the Agency to assess the privacy impact of a regulation that will affect the privacy of individuals. This final rule does not require the collection of personally identifiable information (PII). Because this final rule does not require the collection of PII, the Agency is not required to conduct a privacy impact assessment (PIA). Section 208 of the E-Government Act of 2002 (44 U.S.C. 3501 note) requires Federal agencies to conduct a PIA for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology will collect, maintain, or disseminate such information as a result of this rule. Accordingly, FMCSA has not conducted a PIA.

In addition, the Agency submitted a Privacy Threshold Assessment to evaluate the risks and effects the rulemaking might have on collecting, storing, and sharing personally identifiable information. The DOT Privacy Office has determined that this rulemaking does not create privacy risk.

[14] A ''major rule'' means any rule that OMB finds has resulted in or is likely to result in (a) an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal agencies, State agencies, local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 804(2)).

[15] Public Law 104–121, 110 Stat. 857, (Mar. 29, 1996).

[16] Public Law 104–121, 110 Stat. 857, (Mar. 29, 1996).

[17] Public Law 108–447, 118 Stat. 2809, 3268, note following 5 U.S.C. 552a (Dec. 4, 2014).

I. E.O. 13175 (Indian Tribal Governments)

This rule does not have Tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

J. National Environmental Policy Act of 1969

FMCSA analyzed this rule pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680), Appendix 2, paragraph 6.bb. The Categorical Exclusion (CE) in paragraph 6.bb. addresses regulations concerning vehicle operation safety standards (*e.g.,* regulations requiring: Certain motor carriers to use approved equipment which is required to be installed such as an ignition cut-off switch, or carried onboard, such as a fire extinguisher, and/or stricter blood alcohol concentration standards for drivers, etc.), equipment approval, and/or equipment carriage requirements (*e.g.,* fire extinguishers and flares). The requirements in this rule are covered by this CE and the final action does not have any effect on the quality of the environment.

List of Subjects in 49 CFR Part 393

Highway safety, Motor carriers, Motor vehicle safety.

Accordingly, FMCSA amends 49 CFR chapter III, part 393 as follows:

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

■ 1. The authority citation for part 393 continues to read as follows:

Authority: 49 U.S.C. 31136, 31151, and 31502; sec. 1041(b) of Pub. L. 102–240, 105 Stat. 1914, 1993 (1991); sec. 5301 and 5524 of Pub. L. 114–94, 129 Stat. 1312, 1543, 1560; and 49 CFR 1.87.

■ 2. Amend § 393.5 by revising the definition of ''Vehicle safety technology'' to read as follows:

§ 393.5 Definitions.

* * * * *

Vehicle safety technology. Vehicle safety technology includes systems and items of equipment to promote driver, occupant, and roadway safety. Examples of vehicle safety technology systems and devices include a fleet-related incident management system, performance or behavior management system, speed management system, lane departure warning system, forward collision warning or mitigation system, active cruise control system, transponder, braking warning system, braking assist system, driver camera system, attention assist warning, Global Positioning Systems, and traffic sign recognition. Vehicle safety technology includes systems and devices that contain cameras, lidar, radar, sensors, and/or video.

* * * * *

■ 3. Amend § 393.60 by revising paragraph (e)(1)(ii) to read as follows:

§ 393.60 Glazing in specified openings.

* * * * *

(e) * * *

(1) * * *

(ii) Paragraph (e)(1)(i) of this section does not apply to *vehicle safety technologies,* as defined in § 393.5, that are mounted on the interior of a windshield. Devices with vehicle safety technologies must be mounted:

(A) Not more than 216 mm (8.5 inches) below the upper edge of the area swept by the windshield wipers;

(B) Not more than 175 mm (7 inches) above the lower edge of the area swept by the windshield wipers; and

(C) Outside the driver's sight lines to the road and highway signs and signals.

* * * * *

Issued under the authority of delegation in 49 CFR 1.87.

Robin Hutcheson,

Acting Administrator.

[FR Doc. 2022–03996 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 220225–0061]

RIN 0648–BL18

Pacific Halibut Fisheries; Catch Sharing Plan; 2022 Annual Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, on behalf of the International Pacific Halibut Commission (IPHC), publishes as regulations the 2022 annual management measures governing the Pacific halibut fishery that have been recommended by the IPHC and accepted by the Secretary of State. These measures are intended to enhance the conservation of Pacific halibut and further the goals and objectives of the Pacific Fishery Management Council and the North Pacific Fishery Management Council.

DATES: The IPHC's 2022 annual management measures are effective February 18, 2022. The 2022 management measures are effective until superseded.

ADDRESSES: Additional requests for information regarding this action may be obtained by contacting the International Pacific Halibut Commission, 2320 W Commodore Way, Suite 300, Seattle, WA 98199–1287; or Sustainable Fisheries Division, NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802; or Sustainable Fisheries Division, NMFS West Coast Region, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232. This final rule also is accessible via the internet at the Federal eRulemaking Portal at *http://www.regulations.gov,* identified by docket number NOAA–NMFS–2022–0020.

FOR FURTHER INFORMATION CONTACT: For waters off Alaska, Doug Duncan, 907–586–7425; or, for waters off the U.S. West Coast, Kathryn Blair, 503–231–6858.

SUPPLEMENTARY INFORMATION:

Background

The IPHC has recommended regulations that would govern the Pacific halibut fishery in 2022, pursuant to the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979).

As provided by the Northern Pacific Halibut Act of 1982 (Halibut Act), the Secretary of State, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, regulations recommended by the IPHC in accordance with the Convention. 16 U.S.C. 773b. The Secretary of State, with the concurrence of the Secretary of Commerce, accepted

the 2022 IPHC regulations on February 18, 2022.

The Halibut Act provides the Secretary of Commerce with the authority and general responsibility to carry out the requirements of the Convention and the Halibut Act. The Regional Fishery Management Councils may develop, and the Secretary of Commerce may implement, regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations. The North Pacific Fishery Management Council (NPFMC) has exercised this authority in developing halibut management programs for three fisheries that harvest halibut in Alaska: The subsistence, sport, and commercial fisheries. The Pacific Fishery Management Council (PFMC) has exercised this authority by developing a catch sharing plan governing the allocation of halibut and management of sport fisheries on the U.S. West Coast.

The IPHC apportions catch limits for the Pacific halibut fishery among regulatory areas (Figure 1): Area 2A (Oregon, Washington, and California), Area 2B (British Columbia), Area 2C (Southeast Alaska), Area 3A (Central Gulf of Alaska), Area 3B (Western Gulf of Alaska), and Area 4 (which is further divided into 5 areas, 4A through 4E, in the Bering Sea and Aleutian Islands of Western Alaska).

Subsistence and sport halibut fishery regulations for Alaska are codified at 50 CFR part 300. Commercial halibut fisheries off Alaska are subject to regulations resulting from the Individual Fishing Quota (IFQ) Program, the Community Development Quota (CDQ) Program (50 CFR part 679), and the area-specific catch sharing plans (CSPs) for Areas 2C, 3A, and Areas 4C, 4D, and 4E.

The NPFMC implemented a CSP among commercial IFQ and CDQ halibut fisheries in IPHC Regulatory Areas 4C, 4D, and 4E (Area 4, Western Alaska) through rulemaking, and the Secretary of Commerce approved the plan on March 20, 1996 (61 FR 11337). The Area 4 CSP regulations are codified at 50 CFR 300.65. New annual regulations pertaining to the Area 4 CSP also may be implemented through IPHC action, subject to acceptance by the Secretary of State.

The NPFMC recommended and NMFS implemented through rulemaking a CSP for guided sport (charter) and commercial IFQ halibut fisheries in IPHC Regulatory Area 2C and Area 3A on January 13, 2014 (78 FR 75844, December 12, 2013). The Area 2C and 3A CSP regulations are codified at 50 CFR 300.65. The CSP defines an annual process for allocating halibut between the commercial and charter fisheries so that each sector's allocation varies in proportion to halibut abundance, specifies a public process for setting annual management measures, and authorizes limited annual leases of commercial IFQ for use in the charter fishery as guided angler fish (GAF).

The IPHC held its annual meeting remotely by video conference from January 24 through 28, 2022, and recommended a number of changes to the previous IPHC regulations (86 FR 13475, March 9, 2021). On February 18, 2022, the Secretary of State with the concurrence of the Secretary of Commerce accepted the annual management measures, including the following changes to Section 5, Section 29, and other Sections of the 2022 IPHC regulations:

1. New halibut catch limits in all regulatory areas. The catch limits are presented in two tables in Section 5 that distinguish between limits resulting from Commission decisions and those that are from catch limits that are the responsibility of the respective United States and Canada governments;

2. new management measures for Area 2C and Area 3A guided sport fisheries in Section 29;

3. new harvest recordkeeping requirements for Area 2C and Area 3A guided anglers to maintain a harvest record if a halibut annual limit is in place in Section 29; and

4. minor technical corrections to improve consistency and clarity throughout the IPHC regulations.

Pursuant to regulations at 50 CFR 300.62, the 2022 IPHC annual management measures are published in the **Federal Register** in this action to provide notice of their regulatory effectiveness and to inform persons subject to the regulations of their restrictions and requirements. Because the regulations published in this action are applicable to the entire Convention area, these regulations include some provisions relating to and affecting Canadian fishing and fisheries. In separate actions, NMFS may implement more restrictive regulations for the U.S. halibut fishery or components of it; therefore, anglers are advised to check the current Federal and IPHC regulations prior to fishing.

Catch Limits

The IPHC recommended to the governments of Canada and the United States fishery catch limits for 2022 totaling 33,190,000 lb (15,055 mt). Fishery catch limits are referred to as Fishery Constant Exploitation Yield (FCEY) by the IPHC, which is the amount of yield for the directed Pacific halibut fisheries dependent upon allocation agreements in each IPHC regulatory area. Coastwide, the 2022 FCEY increased 9.4 percent over the FCEY implemented in 2021. Except for Area 2A, the FCEY in each regulatory area increased. The FCEY for Area 2A decreased by approximately 1.3 percent relative to the 2021 catch limit. A description of the process the IPHC used to set these catch limits follows.

For the upcoming 2022 halibut fishing year, the IPHC conducted its annual stock assessment using a range of updated data sources as described in detail in the IPHC overview of data sources for the Pacific halibut stock assessment, harvest policy, and related analyses (IPHC–2022–AM098–10; available at *www.iphc.int*). To evaluate the Pacific halibut stock, the IPHC used an ''ensemble'' of four equally weighted models, comprised of two long time-series models incorporating data from 1888 to the present, and two short time-series models incorporating data from 1996 to the present. Each time-series uses data that are divided either by four geographical regions or aggregated into coastwide summaries. These models incorporate data, including 2021 data, from the IPHC Fishery Independent Setline Survey (FISS), the commercial halibut fishery, the most recent NMFS Eastern Bering Sea trawl survey, sex-specific recreational age composition data from Area 3A, weight-at-age and male/female sex ratio estimates by region in the directed commercial fisheries and in the FISS, commercial fishery logbook information, and age distribution information for bycatch, sport, and sublegal discard removals.

The results of the ensemble models are integrated and incorporate uncertainty in natural mortality rates, environmental effects on recruitment, and other structural and parameter categories, consistent with practices in place since 2012. The data and assessment models used by the IPHC are reviewed by the IPHC's Scientific Review Board comprised of non-IPHC scientists who provide an independent scientific review of the data and stock assessment to provide recommendations to IPHC staff and the Commissioners. The Scientific Review Board did not identify any substantive errors in the data or methods used in the 2022 stock assessment. NMFS believes the IPHC's data and assessments models constitute best available science on the status of the Pacific halibut resource.

The IPHC's data, including the FISS, indicate that the Pacific halibut stock

declined continuously from the late 1990s to around 2012, largely as a result of decreasing size at a given age (size-at-age), higher harvest rates in the early 2000s, and weaker recruitment than observed during the 1980s. From about 2013 to 2016, there was a slight increasing trend in the spawning biomass, followed by a slight decline continuing into the current assessment. Results from the 2021 stock assessment incorporate data from an expansion of the FISS throughout the survey range over the 2011–2019 period. Among other things, improvements in the FISS spatial coverage enhance understanding of spatial and temporal Pacific halibut density, and reduces the uncertainty in the weight per unit effort (WPUE) and number per unit effort (NPUE) indices.

Overall, the spawning biomass is estimated to be approximately 191,000,000 lb (86,636.14 mt) at the beginning of 2022. The stock is currently estimated to be at 33 percent of its unfished state. This estimate reflects updated calculations recommended during stock assessment external review and review by the Scientific Review Board, as well as developments in the IPHC Management Strategy Evaluation.

The IPHC's current interim management procedure that was adopted in 2020 strives to maintain the total mortality of halibut across its range from all sources based on a reference level of fishing intensity so that the Spawning Potential Ratio (SPR) is equal to 43 percent. The reference fishing intensity of F43 percent SPR seeks to allow a level of fishing intensity that is expected to result in approximately 43 percent of the spawning biomass per recruit compared to an unfished stock (*i.e.,* no fishing mortality). Lower F values would be expected to result in higher fishing intensity. The 2021 stock assessment and estimates of fishing intensity were enhanced by newly available data on the male/female sex ratio for the 2020 commercial fishery landings. Combined with similar data collected from 2017 to 2019 in the commercial fisheries, the information on the sex ratio affected the treatment of the stock assessment data for the directed commercial fishery in the stock assessment models; it did not change the treatment or sex ratio estimates of the mortalities associated with the recreational, subsistence, or non-directed halibut fisheries.

The IPHC harvest decision table (Table 3 in IPHC–2022–AM098–10; available at *www.iphc.int*) provides a comparison of the relative risk of a decrease in stock biomass, stock status, or fishery metrics, for a range of fishing intensities for 2022. The harvest decision table employs two metrics of fishing mortality: (1) The Total Constant Exploitation Yield (TCEY), which includes harvests and incidental discard mortality from directed commercial fisheries, mortality estimates from sport, subsistence, and personal use, and estimates of non-directed discard mortality of halibut over 26 inches (66.0 cm); and, (2) Total Mortality, which includes all the above sources of mortality, plus estimates of non-directed discard mortality of halibut less than 26 inches (66.0 cm) (U26). Although U26 halibut mortality is factored into the stock assessment and harvest strategy calculations, there is currently no reliable tool for describing the annual coastwide distribution of U26 halibut.

For 2022, the IPHC adopted a TCEY totaling 41,220,000 lb (18,697 mt) coastwide. This corresponds to a fishing intensity of approximately F43 percent, which is consistent with the target level of fishing intensity used to establish the TCEY for 2021. The 2022 TCEY is 2,220,000 lb (1,007.0 mt) greater than the TCEY adopted in 2021.

The IPHC noted this management approach represents a relatively conservative level of harvest that considers the inherent uncertainties in the stock assessment models. The IPHC noted that under a broad range of catch limits, including highly restrictive catch limits, the halibut spawning biomass is likely to decrease based on the best available scientific information. In making its recommendation, the IPHC considered likely stock status and uncertainties, as well as the significant social and economic impacts of catch limits among areas.

At a 41,220,000 lb (18,697 mt) TCEY, the IPHC estimates that the spawning biomass will likely decrease from 2023 to 2025 relative to 2022. Specifically, the IPHC estimates there is a 59 percent probability that the spawning biomass will decrease in 2023 relative to 2022, and there is a 25 percent probability that the decrease in 2023 will be at least 5 percent of the 2022 spawning biomass. The IPHC also noted that if the reference level of fishing intensity continues, the probability of a spawning biomass decrease is expected to decline as the strong 2012 cohort matures. The factors that the IPHC considered in making their TCEY recommendations are described in the 2022 Annual Meeting Report (IPHC–2022–AM098–R; available at *www.iphc.int*) and the key recommendations are briefly summarized here.

This final rule does not establish the combined commercial and recreational catch limit for Area 2B (British Columbia), which is subject to rulemaking by the Canada and British Columbia governments. However, the IPHC's recommendation for the Area 2B catch limit is directly related to the current and future U.S. catch limits established by this final rule and is therefore discussed herein. The IPHC recommended a 2022 TCEY of 7,560,000 lb (3,429 mt) for Area 2B, which equates to 18.3 percent of the total coastwide TCEY. The IPHC made this recommendation after considering recent historic harvests in Area 2B, the distribution of the TCEY in Area 2B as estimated from the FISS under the current interim management procedure, and other factors described in the 2022 Annual Meeting Report (IPHC–2022–AM098–R; available at *www.iphc.int*).

The IPHC recommended an allocation to Area 2A that would provide a TCEY of 1,650,000 lb (748 mt) with a combined commercial, tribal, and recreational catch limit of 1,490,000 lb (676 mt). This allocation is larger than the catch limit that would apply to Area 2A under the adopted fishing intensity of F43 percent and the proportion of the stock as estimated from the FISS under the current interim management procedure. To achieve the Area 2A and Area 2B allocations and still maintain the target coastwide fishing intensity of F43 percent, the IPHC recommended an overall reduction in catch limits in other IPHC regulatory areas in U.S. waters that are intended to maintain total mortality to the adopted fishing intensity of F43 percent.

After the allocations for Areas 2A and 2B are accounted for, the IPHC apportioned the remaining TCEY to the Alaska regulatory areas (Areas 2C through Area 4) after considering the distribution of harvestable biomass of halibut based on the FISS, as well as 2021 harvest rates, the recommendations from the IPHC's advisory boards, public input, and social and economic factors. All U.S. areas maintained or increased in TCEY relative to 2021 (see Table 1). The largest increase was 25 percent in Area 3B, while Areas 2C, 3A, 4A, 4B, and 4CDE received increases ranging from 1.9 percent to 3.9 percent relative to 2021. Area 2A received the same TCEY in 2022 as it did in 2021. The IPHC determined that the 2022 catch limit recommendations are consistent with its conservation objectives for the halibut stock and its management objectives for the halibut fisheries.

The IPHC also considered the Catch Sharing Plan for Area 4CDE developed by the NPFMC in its catch limit recommendation. The Area 4CDE catch limit is determined by subtracting

estimates of the Area 4CDE subsistence harvests, commercial discard mortality, and non-directed discard mortality of halibut over 26 inches (66.0 cm) from the area TCEY. When the resulting Area 4CDE catch limit is greater than 1,657,600 lb (751.87 mt), a direct allocation of 80,000 lb (36.29 mt) is made to Area 4E to provide CDQ fishermen in that area with additional harvesting opportunity. After this 80,000 lb (36.29 mt) allocation is deducted from the catch limit, the remainder is divided among Areas 4C, 4D, and 4E according to the percentages specified in the CSP. Those percentages are 46.43 percent each to 4C and 4D, and 7.14 percent to 4E. For 2021, the IPHC recommended a catch limit for Area 4CDE of 2,060,000 lb (934 mt).

TABLE 1—PERCENT CHANGE IN TCEY MORTALITY LIMITS FROM 2021 TO 2022 BY IPHC REGULATORY AREA

Regulatory area	2021 total mortality limit (lb)	2022 total mortality limit (lb)	Change from 2021 (percent)
2A	1,650,000 (748 mt)	1,650,000 (748 mt)	0.0
2B	7,000,000 (3,175 mt)	7,560,000 (3,429 mt)	8.0
2C	5,800,000 (2,631 mt)	5,910,000 (2,681 mt)	1.9
3A	14,000,000 (6,350 mt)	14,550,000 (6,600 mt)	3.9
3B	3,120,000 (1,415 mt)	3,900,000 (1,769 mt)	25.0
4A	2,050,000 (930 mt)	2,100,000 (953 mt)	2.4
4B	1,400,000 (635 mt)	1,450,000 (658 mt)	3.6
4CDE	3,980,000 (1,805 mt)	4,100,000 (1,860 mt)	3.0
Coastwide	39,000,000 (17,690 mt)	41,220,000 (18,697 mt)	5.7

Commercial Halibut Fishery Opening and Closing Dates

The IPHC considers advice from the IPHC's two advisory boards, as well as direct testimony from the public, when selecting opening and closing dates for the commercial halibut fishery. The 2022 commercial halibut fishery opening date for all IPHC regulatory areas is March 6, 2022. The closing date for the commercial halibut fisheries in all IPHC regulatory areas is December 7, 2022. These commercial season dates are the same season dates adopted by the IPHC in 2021; they result in a longer season compared to years prior to 2021 when the commercial halibut fisheries opened mid-March and closed mid-November. The extended season maintains harvesting and market flexibility that stakeholders have identified as important during the current period of uncertainty. These commercial season dates are not expected to result in detrimental conservation effects. The season dates allow for the anticipated time required to fully harvest the commercial halibut catch limits, seasonal holidays, and adequate time for IPHC staff to review the complete record of 2021 commercial catch data for use in the stock assessment process. The IPHC also considered the time required for the administrative tasks that are linked to halibut regulations developed independently by the domestic partners when establishing these season dates.

For Area 2A, the IPHC recommended that the non-treaty directed commercial fishery will open for 58 hours, beginning at 0800 hours on June 28 and close at 1800 hours on June 30. After this first opening, if the IPHC determines that the fishing limit has not been exceeded, it may announce a second fishing period of up to three fishing days to begin on Tuesday two weeks after the first period opens. This season structure is consistent with the approach used during 2021 in Area 2A. Specific fishing period limits (vessel quota) will be determined and communicated by IPHC.

Area 2A Catch Sharing Plan

The NMFS West Coast Region has published a proposed rule (February 17, 2022, 87 FR 9021), with public comments accepted for 15 days, to approve the Pacific halibut CSP for Area 2A off Washington, Oregon, and California and implement annual management measures for Area 2A as recommended by the PFMC in the CSP. These annual management measures include sport fishery allocations and management measures for Area 2A which are not implemented through the IPHC. NMFS will address any comments received in a final rule. The proposed and final rules for the Area 2A CSP will be available on the NMFS West Coast Region's website at *https://www.fisheries.noaa.gov/action/2022-pacific-halibut-catch-sharing-plan* and also at *www.regulations.gov.*

Catch Sharing Plan for Area 2C and Area 3A

In 2014, NMFS implemented a CSP for Area 2C and Area 3A. The CSP defines an annual process for allocating halibut between the charter and commercial fisheries in Area 2C and Area 3A, and establishes allocations for each fishery. Under the CSP, the IPHC recommends combined catch limits (CCLs) for the charter and commercial halibut fisheries in Area 2C and Area 3A. Each CCL includes estimates of discard mortality for each fishery. The CSP was implemented to achieve the halibut fishery management goals of the NPFMC. More information is provided in the final rule implementing the CSP (78 FR 75844, December 12, 2013). Implementing regulations for the CSP are at 50 CFR 300.65. The Area 2C and Area 3A CSP allocations are located in Tables 1 through 4 of subpart E of 50 CFR part 300. To allow additional flexibility for individual commercial and charter fishery participants, the CSP also authorizes annual transfers of commercial halibut IFQ as GAF to charter halibut permit holders for harvest in the charter fishery. GAF regulations for the CSP are at 50 CFR 300.65.

At its January 2022 meeting, the IPHC recommended a CCL of 4,460,000 lb (2,023 mt) for Area 2C. Following the CSP allocations in Tables 1 and 3 of subpart E of 50 CFR part 300, the charter fishery is allocated 820,000 lb (372 mt) of the CCL and the remainder of the CCL, 3,650,000 lb (1,656 mt) is allocated to the commercial fishery. Discard mortality in the amount of 140,000 lb (63.5 mt) was deducted from the commercial allocation to obtain the commercial catch limit of 3,510,000 lb (1,592.1 mt). The commercial allocation (including discard mortality) increased by 50,000 lb (22.7 mt), or 1.4 percent, from the 2021 allocation of 3,600,000 lb (1,632.9 mt). The 2022 Area 2C charter allocation of 820,000 lb (372 mt) is 10,000 lb (4.5 mt), or 1.2 percent more than the 2021 charter sector allocation of 810,000 lb (367.41 mt).

The IPHC recommended a CCL of 12,070,000 lb (5,475 mt) for Area 3A.

Following the CSP allocations in Tables 2 and 4 of subpart E of 50 CFR part 300, the charter fishery is allocated 2,110,000 lb (957 mt) of the CCL and the remainder of the CCL, 9,960,000 lb (4,518 mt), is allocated to the commercial fishery. Discard mortality in the amount of 410,000 lb (185.9 mt) was deducted from the commercial allocation to obtain the commercial catch limit of 9,550,000 lb (4,331.8 mt). The commercial allocation (including discard mortality) increased by about 770,000 lb (349.3 mt), or 8.4 percent, from the 2021 allocation of 9,190,000 lb (4,168.51 mt). The charter allocation increased by 160,000 lb (72.6 mt), or 8.2 percent, from the 2021 allocation of 1,950,000 lb (884.51 mt).

Charter Halibut Management Measures for Area 2C and Area 3A

Guided (charter) recreational halibut anglers are managed under different regulations than unguided recreational halibut anglers in Areas 2C and 3A in Alaska. According to Federal regulations at 50 CFR 300.61, a charter vessel angler means a person, paying or non-paying, receiving sport fishing guide services for halibut. Sport fishing guide services means assistance, for compensation or with the intent to receive compensation, to a person who is sport fishing, to take or attempt to take halibut by accompanying or physically directing the sport fisherman in sport fishing activities during any part of a charter vessel fishing trip. A charter vessel fishing trip is the time period between the first deployment of fishing gear into the water from a charter vessel by a charter vessel angler and the offloading of one or more charter vessel anglers or any halibut from that vessel. The charter fishery regulations described below apply only to charter vessel anglers receiving sport fishing guide services during a charter vessel fishing trip for halibut in Area 2C or Area 3A. These regulations do not apply to unguided recreational anglers in any regulatory area in Alaska, or guided anglers in areas other than Areas 2C and 3A.

To provide recommendations for annual management measures intended to limit charter harvest to the charter catch allocation, the NPFMC formed the Charter Halibut Management Committee (Committee) as a stakeholder advisory body. The Committee is composed of representatives from the charter fishing industry in Areas 2C and 3A who provide input on the preferred range of charter management measures each year. In October 2021, the Committee began their annual process by requesting analysis of management measures that would result in charter halibut removals within the range of expected allocations for each area. In addition, this annual analysis, which is prepared by the Alaska Department of Fish Game (ADFG), includes information about charter harvests in the prior year. The Analysis of Management Options for the Area 2C and 3A Charter Halibut Fisheries for 2022 (charter halibut analysis) is available at *https://www.npfmc.org/*.

Management of charter halibut fishing in Areas 2C and 3A has been challenging in recent years. The 2020 charter fishing season was greatly impacted by the coronavirus pandemic, resulting in an unexpected and significant drop in charter fishing effort and harvest. The NPFMC and IPHC responded with revised management measures (June 19, 2020, 85 FR 37024). Despite these liberalized management measures, 2020 charter halibut harvests were 36.0 percent below the Area 2C allocation, and 6.6 percent below the Area 3A allocation. Expecting a similar reduction in charter halibut harvest due to the ongoing coronavirus pandemic conditions and associated travel restrictions, the 2021 management measures included a buffer to account for reductions in charter harvest anticipated to be similar to 2020 in order to allow the sector to more completely use its allocation (86 FR 13475, March 9, 2021). However, the charter halibut analysis found that the 2021 charter halibut harvests were 42.5 percent above the Area 2C allocation, and 25.9 percent above the Area 3A allocation. Overall, 2021 charter halibut harvests were significantly higher than expected despite challenging pandemic conditions and continuing uncertainty. Communities that are highly dependent on cruise ship tourism, which was significantly reduced in 2021, did experience significant reductions in charter halibut harvests relative to historical conditions.

After reviewing the charter halibut analysis, the Committee made conservative recommendations for preferred management measures to the NPFMC for 2022. These recommendations are intended to provide equitable harvest opportunity across charter business arrangements and maintain total charter harvests within the 2022 allocations for both Areas 2C and 3A. These recommendations do not include an additional buffer as was adopted in the 2021 management measures. The NPFMC considered the charter halibut analysis, the recommendations of the Committee, and public testimony to develop its recommendation to the IPHC. The IPHC took action consistent with the NPFMC's recommendations. The NPFMC has used this process to select and recommend annual management measures to the IPHC since 2012.

The IPHC recognizes the role of the NPFMC to develop policy and regulations that allocate the Pacific halibut resource among fishermen in and off Alaska, and that NMFS has developed numerous regulations to support the NPFMC's goals of limiting charter harvests. For 2022, the IPHC concluded that in Area 3A, despite an 8.2 percent increase in the charter catch limit relative to 2021, the 2022 management measures should be more conservative than those adopted in 2021 given the high charter halibut removals observed in 2021. For the same reasons, for Area 2C, despite an increase in the charter catch limit relative to 2021, the IPHC concluded that the 2022 management measures should be more conservative than those adopted in 2021. The IPHC's recommendations are consistent with the recommendations of the NPFMC and the Committee. The IPHC determined that limiting charter harvests by implementing the management measures discussed below would meet conservation and allocation objectives.

Management Measures for Charter Vessel Fishing in Area 2C

For 2022 in Area 2C, the IPHC recommended the continuation of a one-fish daily bag limit with a reverse slot limit that prohibits a person on board a charter vessel referred to in 50 CFR 300.65 and fishing in Area 2C from taking or possessing any halibut, with head on, that is greater than 40 inches (101.6 cm) and less than 80 inches (203.2 cm). The charter halibut size limits referenced in this document are as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with mouth closed, to the extreme end of the middle of the tail. These measures are projected to yield 814,000 lb (369.2 mt) of charter removals, which is 6,000 lb (2.7 mt) and 0.7 percent below the Area 2C charter allocation. Reverse slot limits have proven an effective tool to limit the number and pounds of retained halibut. These are more conservative than the primary management measures for Area 2C in 2021, which were one halibut per charter angler, less than or equal to 50 inches (127.0 cm) or greater than 72 inches (182.9 cm). The NPFMC and IPHC considered information on charter removals in 2021 and for previous years, the projections of charter harvest, and the charter allocation. With this

information, the NPFMC and IPHC determined that more conservative management measures in Area 2C, relative to the 2021 measures, were appropriate to limit charter removals to the 2022 allocation.

Management Measures for Charter Vessel Fishing in Area 3A

For 2022, the IPHC recommended the following management measures for Area 3A: (1) A two-fish bag limit with a 28-inch (71.1 cm) maximum size limit on one of the halibut; (2) a one-trip per day limit for charter vessels and for charter halibut permits for the entire season; (3) prohibition on halibut retention by charter vessel anglers on all Wednesdays; and, (4) prohibition on halibut retention by charter vessel anglers on the following Tuesdays: July 26 and August 2. The projected charter harvest for 2022 under this combination of recommended measures is 2,096,000 lb (950.7 mt), which is 14,000 lb (6.4 mt) and 0.7 percent below the charter allocation. Each of these management measures is described in the following section.

These management measures are more conservative than the primary management measures for Area 3A in 2021 when an overage occurred. The NPFMC and IPHC considered information on charter removals in 2021 and for previous years, the projections of charter harvest, and the charter allocation. With this information, the NPFMC and IPHC determined that more restrictive management measures in Area 3A, relative to the 2021 measures, were appropriate to limit charter removals to the 2022 allocation.

Size Limit for Halibut Retained on a Charter Vessel in Area 3A

The 2022 charter halibut fishery in Area 3A will be managed under a two-fish daily bag limit in which one of the retained halibut may be of any size and one of the retained halibut must be 28 inches (71.1 cm) or less. The 28 inch (71.1 cm) second fish maximum size limit was in effect from 2016 through 2019 in Area 3A.

Trip Limit for Charter Vessels Harvesting Halibut in Area 3A

Charter halibut permits and charter vessels in 2022 are authorized only for use to catch and retain halibut on one charter halibut fishing trip per day in Area 3A. If no halibut are retained during a charter vessel fishing trip, the charter halibut permit and vessel may be used to take an additional trip to catch and retain halibut that day. These regulations have been in place each year since 2016, and have proven to be effective in controlling halibut harvests.

For purposes of the trip limit in Area 3A in 2022, a charter vessel fishing trip will end when anglers or halibut are offloaded, or at the end of the calendar day, whichever occurs first. Charter operators are still able to conduct overnight trips and anglers may retain a bag limit of halibut on two calendar days, but operators are not allowed to begin another overnight trip until the day after the trip ends. GAF halibut are exempt from the trip limit. Therefore, GAF may be used to harvest halibut on a second trip in a day, but only if exclusively GAF halibut are harvested on that trip.

Day-of-Week Closures in Area 3A

The NPFMC and the IPHC recommended a closure on retaining halibut by charter vessel anglers on all Wednesdays and on two Tuesdays—July 26 and August 2—for Area 3A in 2022. Retention of GAF halibut is allowed on charter vessels on closed days, but all other halibut that are caught while fishing on a charter vessel must be released. The day of week closures effectively decrease the charter halibut harvest to help stay within the allocation.

Other Regulatory Amendments

Recordkeeping and Reporting Requirements for Charter Vessel Anglers With an Annual Limit

The recordkeeping requirements needed to enforce annual limits for charter vessel anglers in Area 2C and Area 3A were added to the general provisions of Section 29(1). This eliminates the need to annually add or remove the specifications for the harvest record card required when an annual limit is selected as a charter management measure in either Area 2C or 3A.

Additionally, Section 29(3) was amended to allow the use of ADFG-approved electronic harvest records for charter vessel anglers in Areas 2C and 3A, if those areas are subject to an annual limit on the number of Pacific halibut that may be retained. Under the amended regulations, existing approved physical harvest records will also continue to be accepted. This creates regulatory consistency for anglers who concurrently retain halibut as well as State managed species for which there is an annual limit.

Technical Changes for Improved Consistency and Clarity

''Authorized representative of the Commission'' was defined in Section 3 as ''any IPHC employee or contractor authorized to perform any task described in these Regulations.'' This clarifies the existing intent of ''an authorized representative of the Commission'' where used in the IPHC regulations. Additionally, minor modifications were made to capitalization and list formatting throughout the IPHC regulations. These amendments improve consistency and clarity but do not result in substantive changes to the IPHC regulations.

International Pacific Halibut Commission Fishery Regulations 2022 (Annual Management Measures)

The following annual management measures for the 2022 Pacific halibut fishery are those recommended by the IPHC and accepted by the Secretary of State, with the concurrence of the Secretary of Commerce.

1. Short Title

These Regulations may be cited as the International Pacific Halibut Commission (IPHC) Fishery Regulations (2022).

2. Application

(1) These Regulations apply to persons and vessels fishing for Pacific halibut in, or possessing Pacific halibut taken from, the maritime area as defined in Section 3.

(2) Sections 3 to 8 and 30 apply generally to all Pacific halibut fishing.

(3) Sections 8 to 23 apply to commercial fishing for Pacific halibut.

(4) Section 24 applies to Indigenous fisheries in British Columbia.

(5) Section 25 applies to customary and traditional fishing in Alaska.

(6) Sections 26 to 29 apply to recreational (also called sport) fishing for Pacific halibut.

(7) These Regulations do not apply to fishing operations authorized or conducted by the Commission for research purposes.

3. Definitions

(1) In these Regulations,

(a) ''authorized officer'' means any State, Federal, or Provincial officer authorized to enforce these Regulations including, but not limited to, the National Marine Fisheries Service (NOAA Fisheries), Department of Fisheries and Oceans (DFO), Alaska Wildlife Troopers (AWT), United States Coast Guard (USCG), Washington Department of Fish and Wildlife (WDFW), the Oregon State Police (OSP), and California Department of Fish and Wildlife (CDFW);

(b) ''authorized clearance personnel'' means an authorized officer of the

United States of America, an authorized representative of the Commission, or a designated fish processor;

(c) ''authorized representative of the Commission'' means any IPHC employee or contractor authorized to perform any task described in these Regulations.

(d) ''charter vessel'' outside of Alaska waters means a vessel used for hire in recreational (sport) fishing for Pacific halibut, but not including a vessel without a hired operator, and in Alaska waters means a vessel used while providing or receiving recreational (sport) fishing guide services for Pacific halibut;

(e) ''commercial fishing'' means fishing, the resulting catch of which is sold or bartered; or is intended to be sold or bartered, other than (i) recreational (sport) fishing; (ii) treaty Indian ceremonial and subsistence fishing as referred to in Section 23, (iii) Indigenous groups fishing in British Columbia as referred to in Section 24; and (iv) customary and traditional fishing as referred to in Section 25 and defined by and regulated pursuant to NOAA Fisheries regulations published at 50 CFR part 300;

(f) ''Commission'' or ''IPHC'' means the International Pacific Halibut Commission;

(g) ''daily bag limit'' means the maximum number of Pacific halibut a person may take in any calendar day from Convention waters;

(h) ''fishing'' means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of gear anywhere in the maritime area;

(i) ''fishing period limit'' means the maximum amount of Pacific halibut that may be retained and landed by a vessel during one fishing period;

(j) ''land'' or ''offload'' with respect to Pacific halibut, means the removal of Pacific halibut from the catching vessel;

(k) ''license'' means a Pacific halibut fishing license issued by the Commission pursuant to Section 15;

(l) ''maritime area,'' in respect of the fisheries jurisdiction of a Contracting Party, includes without distinction areas within and seaward of the territorial sea and internal waters of that Party;

(m) ''net weight'' of a Pacific halibut means the weight of Pacific halibut that is without gills and entrails, head-off, washed, and without ice and slime. If a Pacific halibut is weighed with the head on or with ice and slime, the required conversion factors for calculating net weight are a 2 percent deduction for ice and slime and a 10 percent deduction for the head;

(n) ''operator,'' with respect to any vessel, means the owner and/or the master or other individual on board and in charge of that vessel;

(o) ''overall length'' of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments);

(p) ''person'' includes an individual, corporation, firm, or association;

(q) ''regulatory area'' means an IPHC Regulatory Area referred to in Section 4;

(r) ''setline gear'' means one or more stationary, buoyed, and anchored lines with hooks attached;

(s) ''sport fishing'' or ''recreational fishing'' means all fishing other than (i) commercial fishing; (ii) treaty Indian ceremonial and subsistence fishing as referred to in Section 23; (iii) Indigenous groups fishing in British Columbia as referred to in Section 24; and (iv) customary and traditional fishing as referred to in Section 25 and defined in and regulated pursuant to NOAA Fisheries regulations published in 50 CFR part 300;

(t) ''tender'' means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish processor;

(u) ''VMS transmitter'' means a NOAA Fisheries-approved vessel monitoring system transmitter that automatically determines a vessel's position and transmits it to a NOAA Fisheries-approved communications service provider.[1]

(2) In these Regulations, all bearings are true and all positions are determined by the most recent charts issued by the United States National Ocean Service or the Canadian Hydrographic Service.

4. IPHC Regulatory Areas

The following areas within the IPHC Convention waters shall be defined as IPHC Regulatory Areas for the purposes of the Convention (see Figure 1):

(1) IPHC Regulatory Area 2A includes all waters off the states of California, Oregon, and Washington;

(2) IPHC Regulatory Area 2B includes all waters off British Columbia;

(3) IPHC Regulatory Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58°11′56″ N latitude, 136°38′26″ W longitude) and south and east of a line running 205° true from said light;

(4) IPHC Regulatory Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (57°41′15″ N latitude, 155°35′00″ W longitude) to Cape Ikolik (57°17′17″ N latitude, 154°47′18″ W longitude), then along the Kodiak Island coastline to Cape Trinity (56°44′50″ N latitude, 154°08′44″ W longitude), then 140° true;

(5) IPHC Regulatory Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (54°29′00″ N latitude, 164°20′00″ W longitude) and south of 54°49′00″ N latitude in Isanotski Strait;

(6) IPHC Regulatory Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in Section 10 that are east of 172°00′00″ W longitude and south of 56°20′00″ N latitude;

(7) IPHC Regulatory Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of IPHC Regulatory Area 4A and south of 56°20′00″ N latitude;

(8) IPHC Regulatory Area 4C includes all waters in the Bering Sea north of IPHC Regulatory Area 4A and north of the closed area defined in Section 10 which are east of 171°00′00″ W longitude, south of 58°00′00″ N latitude, and west of 168°00′00″ W longitude;

(9) IPHC Regulatory Area 4D includes all waters in the Bering Sea north of IPHC Regulatory Areas 4A and 4B, north and west of IPHC Regulatory Area 4C, and west of 168°00′00″ W longitude; and

(10) IPHC Regulatory Area 4E includes all waters in the Bering Sea north and east of the closed area defined in Section 10, east of 168°00′00″ W longitude, and south of 65°34′00″ N latitude.

5. Mortality and Fishery Limits

(1) The Commission has adopted the following distributed mortality (TCEY) limits:

[1] Call NOAA Enforcement Division, Alaska Region, at 907–586–7225 between the hours of 0800 and 1600 local time for a list of NOAA Fisheries-approved VMS transmitters and communications service providers.

IPHC regulatory area	Distributed mortality limits (TCEY) (net weight)	
	Tonnes (t)	Million pounds (Mlb)
Area 2A (California, Oregon, and Washington)	748	1.65
Area 2B (British Columbia)	3,429	7.56
Area 2C (southeastern Alaska)	2,681	5.91
Area 3A (central Gulf of Alaska)	6,600	14.55
Area 3B (western Gulf of Alaska)	1,769	3.90
Area 4A (eastern Aleutians)	953	2.10
Area 4B (central/western Aleutians)	658	1.45
Areas 4CDE (Bering Sea)	1,860	4.10
Total	18,697	41.22

(2) The fishery limits resulting from the IPHC-adopted distributed mortality (TCEY) limits and the existing Contracting Party catch sharing arrangements are as follows, recognizing that each Contracting Party may implement more restrictive limits:

IPHC regulatory area	Fishery limits (net weight)	
	Tonnes (t)	Million pounds (Mlb) *
Area 2A (California, Oregon, and Washington)	676	1.49
Non-treaty directed commercial (south of Pt. Chehalis)	115	*252,730
Non-treaty incidental catch in salmon troll fishery	20	*44,599
Non-treaty incidental catch in sablefish fishery (north of Pt. Chehalis)	23	*50,000
Treaty Indian commercial	226	*498,000
Treaty Indian ceremonial and subsistence (year-round)	11	*23,500
Recreational—Washington	134	*294,786
Recreational—Oregon	130	*287,645
Recreational—California	18	*38,740
Area 2B (British Columbia)	3,044	6.71
Commercial fishery	2,587	5.70
Recreational fishery	457	1.01
Area 2C (southeastern Alaska) (combined commercial/guided recreational)	2,023	4.46
Commercial fishery (includes 3.51 Mlb landings and 0.14 Mlb discard mortality)	1,656	3.65
Guided recreational fishery (includes landings and discard mortality)	372	0.82
Area 3A (central Gulf of Alaska) (combined commercial/guided recreational)	5,475	12.07
Commercial fishery (includes 9.55 Mlb landings and 0.41 Mlb discard mortality)	4,518	9.96
Guided recreational fishery (includes landings and discard mortality)	957	2.11
Area 3B (western Gulf of Alaska)	1,520	3.35
Area 4A (eastern Aleutians)	798	1.76
Area 4B (central/western Aleutians)	581	1.28
Areas 4CDE	934	2.06
Area 4C (Pribilof Islands)	417	0.92
Area 4D (northwestern Bering Sea)	417	0.92
Area 4E (Bering Sea flats)	100	0.22
Total	15,055	33.19

* Allocations resulting from the IPHC Regulatory Area 2A Catch Share Plan are listed in *pounds.*

6. In-Season Actions

(1) The Commission is authorized to establish or modify regulations during the season after determining that such action:

(a) Will not result in exceeding the fishery limit established preseason for each IPHC Regulatory Area;

(b) is consistent with the Convention between Canada and the United States of America for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, and applicable domestic law of either Canada or the United States of America; and

(c) is consistent, to the maximum extent practicable, with any domestic catch sharing plans or other domestic allocation programs developed by the governments of Canada or the United States of America.

(2) In-season actions may include, but are not limited to, establishment or modification of the following:

(a) Closed areas;
(b) fishing periods;
(c) fishing period limits;
(d) gear restrictions;
(e) recreational (sport) bag limits;
(f) size limits; or
(g) vessel clearances.

(3) In-season changes will be effective at the time and date specified by the Commission.

(4) The Commission will announce in-season actions under this Section by providing notice to major Pacific halibut processors; Federal, State, United States of America treaty Indian, and Provincial fishery officials; and the media.

7. Careful Release of Pacific Halibut

(1) All Pacific halibut that are caught and are not retained shall be immediately released outboard of the roller and returned to the sea with a minimum of injury by:

(a) Hook straightening;

(b) cutting the gangion near the hook; or

(c) carefully removing the hook by twisting it from the Pacific halibut with a gaff.

(2) Except that paragraph (1) shall not prohibit the possession of Pacific halibut on board a vessel that has been brought aboard to be measured to determine if the applicable size limit of the Pacific halibut is met and, if not legal-sized, is promptly returned to the sea with a minimum of injury.

8. Retention of Tagged Pacific Halibut

(1) Nothing contained in these Regulations prohibits any vessel at any time from retaining and landing a Pacific halibut that bears a Commission external tag at the time of capture, if the Pacific halibut with the tag still attached is reported at the time of landing and made available for examination by an authorized representative of the Commission or by an authorized officer.

(2) After examination and removal of the tag by an authorized representative of the Commission or an authorized officer, the Pacific halibut:

(a) May be retained for personal use; or

(b) may be sold only if the Pacific halibut is caught during commercial Pacific halibut fishing and complies with the other commercial fishing provisions of these Regulations.

(3) Any Pacific halibut that bears a Commission external tag will not count against commercial fishing period limits, Individual Vessel Quotas (IVQ), Individual Transferable Quota (ITQ), Community Development Quotas (CDQ), or Individual Fishing Quotas (IFQ), and are not subject to size limits in these regulations, but should still be recorded in the landing record.

(4) Any Pacific halibut that bears a Commission external tag will not count against recreational (sport) daily bag limits or possession limits, may be retained outside of recreational (sport) fishing seasons, and are not subject to size limits in these regulations.

(5) Any Pacific halibut that bears a Commission external tag will not count against daily bag limits, possession limits, or fishery limits in the fisheries described in Section 23, paragraph (1)(c), Section 24, or Section 25.

9. Commercial Fishing Periods

(1) The fishing periods for each IPHC Regulatory Area apply where the fishery limits specified in Section 5 have not been taken.

(2) Unless the Commission specifies otherwise, commercial fishing for Pacific halibut in all IPHC Regulatory Areas may begin no earlier in the year than 1200 local time on 6 March.

(3) All commercial fishing for Pacific halibut in all IPHC Regulatory Areas shall cease for the year at 1200 local time on 7 December.

(4) The first fishing period in the IPHC Regulatory Area 2A non-tribal directed commercial fishery [2] shall begin at 0800 on the fourth Tuesday in June and terminate at 1800 local time on the subsequent Thursday, unless the Commission specifies otherwise. If the Commission determines that the fishery limit specified for IPHC Regulatory Area 2A in Section 5 has not been exceeded, it may announce a second fishing period of up to three fishing days to begin on Tuesday two weeks after the first period, and, if necessary, a third fishing period of up to three fishing days to begin on Tuesday four weeks after the first period.

(5) Notwithstanding paragraph (4), and paragraph (6) of Section 12, an incidental catch fishery [3] is authorized during the sablefish seasons in IPHC Regulatory Area 2A in accordance with regulations promulgated by NOAA Fisheries. This fishery will occur between the dates and times listed in paragraphs (2) and (3) of this Section.

(6) Notwithstanding paragraph (4), and paragraph (6) of Section 12, an incidental catch fishery is authorized during salmon troll seasons in IPHC Regulatory Area 2A in accordance with regulations promulgated by NOAA Fisheries. This fishery will occur between the dates and times listed in paragraphs (2) and (3) of this Section.

10. Closed Area

All waters in the Bering Sea north of 55°00′00″ N latitude in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36′00″ N latitude, 164°55′42″ W longitude) to a point at 56°20′00″ N latitude, 168°30′00″ W longitude; thence to a point at 58°21′25″ N latitude, 163°00′00″ W longitude; thence to Strogonof Point (56°53′18″ N latitude, 158°50′37″ W longitude); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light are closed to Pacific halibut fishing and no person shall fish for Pacific halibut therein or have Pacific halibut in his/her possession while in those waters except in the course of a continuous transit across those waters. All waters in Isanotski Strait between 55°00′00″ N latitude and 54°49′00″ N latitude are closed to Pacific halibut fishing.

11. Closed Periods

(1) No person shall engage in fishing for Pacific halibut in any IPHC Regulatory Area other than during the fishing periods set out in Section 9 in respect of that area.

(2) No person shall land or otherwise retain Pacific halibut caught outside a fishing period applicable to the IPHC Regulatory Area where the Pacific halibut was taken.

(3) Subject to paragraphs (7), (8), (9), and (10) of Section 18, these Regulations do not prohibit fishing for any species of fish other than Pacific halibut during the closed periods.

(4) Notwithstanding paragraph (3), no person shall have Pacific halibut in his/her possession while fishing for any other species of fish during the closed periods.

(5) No vessel shall retrieve any Pacific halibut fishing gear during a closed period if the vessel has any Pacific halibut on board.

(6) A vessel that has no Pacific halibut on board may retrieve any Pacific halibut fishing gear during the closed period after the operator notifies an authorized officer or an authorized representative of the Commission prior to that retrieval.

(7) After retrieval of Pacific halibut gear in accordance with paragraph (6), the vessel shall submit to a hold inspection at the discretion of the authorized officer or an authorized representative of the Commission.

(8) No person shall retain any Pacific halibut caught on gear retrieved in accordance with paragraph (6).

(9) No person shall possess Pacific halibut on board a vessel in an IPHC Regulatory Area during a closed period unless that vessel is in continuous transit to or within a port in which that Pacific halibut may be lawfully sold.

12. Application of Commercial Fishery Limits

(1) Notwithstanding the fishery limits described in Section 5, regulations pertaining to the division of the IPHC Regulatory Area 2A fishery limit between the directed commercial fishery and the incidental catch fishery as described in paragraphs (5) and (6) of Section 9 will be promulgated by NOAA Fisheries and published in the **Federal Register**.

[2] The non-tribal directed fishery is restricted to waters that are south of Point Chehalis, Washington, (46°53.30′ N latitude) under regulations promulgated by NOAA Fisheries and published in the **Federal Register**.

[3] The incidental fishery during the directed, fixed gear sablefish season is restricted to waters that are north of Point Chehalis, Washington, (46°53.30′ N latitude) under regulations promulgated by NOAA Fisheries at 50 CFR 300.63. Landing restrictions for Pacific halibut retention in the fixed gear sablefish fishery can be found at 50 CFR 660.231.

(2) The Commission shall determine and announce to the public the date on which the fishery limit for IPHC Regulatory Area 2A will be taken.

(3) Notwithstanding the fishery limits described in Section 5, the commercial fishing in IPHC Regulatory Area 2B will close only when all Individual Vessel Quotas (IVQ) and Individual Transferable Quotas (ITQ) assigned by DFO are taken, or on the date when fishing must cease as specified in Section 9, whichever is earlier.

(4) Notwithstanding the fishery limits described in Section 5, IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E will each close only when all Individual Fishing Quotas (IFQ) and all CDQ issued by NOAA Fisheries have been taken, or on the date when fishing must cease as specified in Section 9, whichever is earlier.

(5) If the Commission determines that the fishery limit specified for IPHC Regulatory Area 2A in Section 5 would be exceeded in an additional directed commercial fishing period as specified in paragraph (4) of Section 9, the fishery limit for that area shall be considered to have been taken and the directed commercial fishery closed as announced by the Commission.

(6) When under paragraphs (1), (2), and (5) the Commission has announced a date on which the fishery limit for IPHC Regulatory Area 2A will be taken, no person shall fish for Pacific halibut in that area after that date for the rest of the year, unless the Commission has announced the reopening of that area for Pacific halibut fishing.

(7) Notwithstanding the fishery limits described in Section 5, the total allowable catch of Pacific halibut that may be taken in the IPHC Regulatory Area 4E directed commercial fishery is equal to the combined annual fishery limits specified for the IPHC Regulatory Areas 4D and 4E CDQ fisheries and any IPHC Regulatory Area 4D IFQ received by transfer by a CDQ organization. The annual IPHC Regulatory Area 4D fishery limit will decrease by the equivalent amount of CDQ and IFQ received by transfer by a CDQ organization taken in IPHC Regulatory Area 4E in excess of the annual IPHC Regulatory Area 4E fishery limit.

(8) Notwithstanding the fishery limits described in Section 5, the total allowable catch of Pacific halibut that may be taken in the IPHC Regulatory Area 4D directed commercial fishery is equal to the combined annual fishery limits specified for IPHC Regulatory Areas 4C and 4D. The annual IPHC Regulatory Area 4C fishery limit will decrease by the equivalent amount of Pacific halibut taken in IPHC Regulatory Area 4D in excess of the annual IPHC Regulatory Area 4D fishery limit.

13. Fishing in Regulatory IPHC Regulatory Areas 4D and 4E

(1) Section 13 applies only to any person fishing for, or any vessel that is used to fish for, IPHC Regulatory Area 4E Community Development Quota (CDQ) Pacific halibut, IPHC Regulatory Area 4D CDQ Pacific halibut, or IPHC Regulatory Area 4D IFQ received by transfer by a CDQ organization provided that the total annual Pacific halibut catch of that person or vessel is landed at a port within IPHC Regulatory Areas 4E or 4D.

(2) A person may retain Pacific halibut taken with setline gear that are smaller than the size limit specified in Section 19, provided that no person may sell or barter such Pacific halibut.

(3) The manager of a CDQ organization that authorizes persons to harvest Pacific halibut in the IPHC Regulatory Area 4E or 4D CDQ fisheries or IFQ received by transfer by a CDQ organization must report to the Commission the total number and weight of undersized Pacific halibut taken and retained by such persons pursuant to Section 13, paragraph (2). This report, which shall include data and methodology used to collect the data, must be received by the Commission prior to 1 November of the year in which such Pacific halibut were harvested.

14. Fishing Period Limits

(1) It shall be unlawful for any vessel to retain more Pacific halibut than authorized by that vessel's license in any fishing period for which the Commission has announced a fishing period limit.

(2) The operator of any vessel that fishes for Pacific halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of Pacific halibut to a commercial fish processor, completely offload all Pacific halibut on board said vessel to that processor and ensure that all Pacific halibut is weighed and reported on State fish tickets.

(3) The operator of any vessel that fishes for Pacific halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of Pacific halibut other than to a commercial fish processor, completely offload all Pacific halibut on board said vessel and ensure that all Pacific halibut are weighed and reported on State fish tickets.

(4) The provisions of paragraph (3) are not intended to prevent retail over-the-side sales to individual purchasers so long as all the Pacific halibut on board is ultimately offloaded and reported.

(5) When fishing period limits are in effect, a vessel's maximum retainable catch will be determined by the Commission based on:

(a) The vessel's overall length in feet and associated length class;

(b) the average performance of all vessels within that class; and

(c) the remaining fishery limit.

(6) Length classes are shown in the following table:

Overall length (in feet)	Vessel class
1–25	A
26–30	B
31–35	C
36–40	D
41–45	E
46–50	F
51–55	G
56+	H

(7) Fishing period limits in IPHC Regulatory Area 2A apply only to the directed Pacific halibut fishery referred to in paragraph (4) of Section 9.

15. Licensing Vessels for IPHC Regulatory Area 2A

(1) No person shall fish for Pacific halibut from a vessel, nor possess Pacific halibut on board a vessel, used either for commercial fishing or as a charter vessel in IPHC Regulatory Area 2A, unless the Commission has issued a license valid for fishing in IPHC Regulatory Area 2A in respect of that vessel.

(2) A license issued for a vessel operating in IPHC Regulatory Area 2A shall be valid only for operating either as a charter vessel or a commercial vessel, but not both.

(3) A vessel with a valid IPHC Regulatory Area 2A commercial license cannot be used to recreationally (sport) fish for Pacific halibut in IPHC Regulatory Area 2A.

(4) A license issued for a vessel operating in the commercial fishery in IPHC Regulatory Area 2A shall be valid for one of the following:

(a) The directed commercial fishery during the fishing periods specified in paragraph (4) of Section 9;

(b) the incidental catch fishery during the sablefish fishery specified in paragraph (5) of Section 9; or

(c) the incidental catch fishery during the salmon troll fishery specified in paragraph (6) of Section 9.

(5) A vessel with a valid license for the IPHC Regulatory Area 2A incidental catch fishery during the sablefish fishery described in paragraph (4)(b)

may also apply for or be issued a license for the directed commercial fishery described in paragraph (4)(a).

(6) A license issued in respect to a vessel referred to in paragraph (1) of this Section must be carried on board that vessel at all times and the vessel operator shall permit its inspection by any authorized officer.

(7) The Commission shall issue a license in respect to a vessel from its office in Seattle, Washington, upon receipt of a completed ''Application for Vessel License for the Pacific Halibut Fishery'' form.

(8) A vessel operating in the directed commercial fishery in IPHC Regulatory Area 2A must have submitted its ''Application for Vessel License for the Pacific Halibut Fishery'' form no later than 2359 local time on 30 April, or the first weekday in May if 30 April is a Saturday or Sunday.

(9) A vessel operating in the incidental catch fishery during the sablefish fishery in IPHC Regulatory Area 2A must have submitted its ''Application for Vessel License for the Pacific Halibut Fishery'' form no later than 2359 local time on 29 May, or the next weekday in May if 29 May is a Saturday or Sunday.

(10) A vessel operating in the incidental catch fishery during the salmon troll fishery in IPHC Regulatory Area 2A must have submitted its ''Application for Vessel License for the Pacific Halibut Fishery'' form no later than 2359 local time on 15 March, or the next weekday in March if 15 March is a Saturday or Sunday.

(11) Applications are submitted on the IPHC Secretariat web page.

(12) Information on the ''Application for Vessel License for the Pacific Halibut Fishery'' form must be accurate.

(13) The ''Application for Vessel License for the Pacific Halibut Fishery'' form shall be completed by the vessel owner.

(14) Licenses issued under this Section shall be valid only during the year in which they are issued.

(15) A new license is required for a vessel that is sold, transferred, renamed, or for which the documentation is changed.

(16) The license required under this Section is in addition to any license, however designated, that is required under the laws of the United States of America or any of its States.

(17) The United States of America may suspend, revoke, or modify any license issued under this Section under policies and procedures in U.S. Code Title 15, CFR part 904.

16. Vessel Clearance in IPHC Regulatory Area 4

(1) The operator of any vessel that fishes for Pacific halibut in IPHC Regulatory Areas 4A, 4B, 4C, or 4D must obtain a vessel clearance before fishing in any of these areas, and before the landing of any Pacific halibut caught in any of these areas, unless specifically exempted in paragraphs (10), (13), (14), (15), or (16).

(2) An operator obtaining a vessel clearance required by paragraph (1) must obtain the clearance in person from the authorized clearance personnel and sign the IPHC form documenting that a clearance was obtained, except that when the clearance is obtained via VHF radio referred to in paragraphs (5), (8), and (9), the authorized clearance personnel must sign the IPHC form documenting that the clearance was obtained.

(3) The vessel clearance required under paragraph (1) prior to fishing in IPHC Regulatory Area 4A may be obtained only at Nazan Bay on Atka Island, Dutch Harbor, or Akutan, Alaska, from the authorized clearance personnel.

(4) The vessel clearance required under paragraph (1) prior to fishing in IPHC Regulatory Area 4B may only be obtained at Nazan Bay on Atka Island or Adak, Alaska, from the authorized clearance personnel.

(5) The vessel clearance required under paragraph (1) prior to fishing in IPHC Regulatory Area 4C or 4D may be obtained only at St. Paul or St. George, Alaska, from the authorized clearance personnel by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(6) The vessel operator shall specify the specific regulatory area in which fishing will take place.

(7) Before unloading any Pacific halibut caught in IPHC Regulatory Area 4A, a vessel operator may obtain the clearance required under paragraph (1) only in Dutch Harbor or Akutan, Alaska, by contacting the authorized clearance personnel.

(8) Before unloading any Pacific halibut caught in IPHC Regulatory Area 4B, a vessel operator may obtain the clearance required under paragraph (1) only in Nazan Bay on Atka Island or Adak, by contacting the authorized clearance personnel by VHF radio or in person.

(9) Before unloading any Pacific halibut caught in IPHC Regulatory Areas 4C and 4D, a vessel operator may obtain the clearance required under paragraph (1) only in St. Paul, St. George, Dutch Harbor, or Akutan, Alaska, either in person or by contacting the authorized clearance personnel. The clearances obtained in St. Paul or St. George, Alaska, can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(10) Any vessel operator who complies with the requirements in Section 17 for possessing Pacific halibut on board a vessel that was caught in more than one regulatory area in IPHC Regulatory Area 4 is exempt from the clearance requirements of paragraph (1) of this Section, provided that:

(a) The operator of the vessel obtains a vessel clearance prior to fishing in IPHC Regulatory Area 4 in either Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting the authorized clearance personnel. The clearance obtained in St. Paul, St. George, Adak, or Nazan Bay on Atka Island can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. This clearance will list the areas in which the vessel will fish; and

(b) before unloading any Pacific halibut from IPHC Regulatory Area 4, the vessel operator obtains a vessel clearance from Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting the authorized clearance personnel. The clearance obtained in St. Paul or St. George can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. The clearance obtained in Adak or Nazan Bay on Atka Island can be obtained by VHF radio.

(11) Vessel clearances shall be obtained between 0600 and 1800, local time.

(12) No Pacific halibut shall be on board the vessel at the time of the clearances required prior to fishing in IPHC Regulatory Area 4.

(13) Any vessel that is used to fish for Pacific halibut only in IPHC Regulatory Area 4A and lands its total annual Pacific halibut catch at a port within IPHC Regulatory Area 4A is exempt from the clearance requirements of paragraph (1).

(14) Any vessel that is used to fish for Pacific halibut only in IPHC Regulatory Area 4B and lands its total annual Pacific halibut catch at a port within IPHC Regulatory Area 4B is exempt from the clearance requirements of paragraph (1).

(15) Any vessel that is used to fish for Pacific halibut only in IPHC Regulatory Areas 4C or 4D or 4E and lands its total annual Pacific halibut catch at a port within IPHC Regulatory Areas 4C, 4D, 4E, or the closed area defined in Section

10, is exempt from the clearance requirements of paragraph (1).

(16) Any vessel that carries a NOAA Fisheries observer, a NOAA Fisheries electronic monitoring system, or a transmitting VMS transmitter while fishing for Pacific halibut in IPHC Regulatory Areas 4A, 4B, 4C, or 4D and until all Pacific halibut caught in any of these IPHC Regulatory Areas is landed, is exempt from the clearance requirements of paragraph (1) of this Section, provided that:

(a) The operator of the vessel complies with NOAA Fisheries' observer or electronic monitoring regulations published at 50 CFR Subpart E, or vessel monitoring system regulations published at 50 CFR 679.28(f)(3), (4) and (5); and

(b) the operator of the vessel notifies NOAA Fisheries Office for Law Enforcement at 800–304–4846 (select option 1 to speak to an Enforcement Data Clerk) between the hours of 0600 and 0000 (midnight) local time within 72 hours before fishing for Pacific halibut in IPHC Regulatory Areas 4A, 4B, 4C, or 4D and receives a VMS confirmation number.

17. Fishing Multiple Regulatory Areas

(1) Except as provided in this Section, no person shall possess at the same time on board a vessel Pacific halibut caught in more than one IPHC Regulatory Area.

(2) Pacific halibut caught in more than one of the IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E may be possessed on board a vessel at the same time only if:

(a) Authorized by NOAA Fisheries regulations published at 50 CFR Section 679.7(f)(4); and

(b) the operator of the vessel identifies the regulatory area in which each Pacific halibut on board was caught by separating Pacific halibut from different areas in the hold, tagging Pacific halibut, or by other means.

18. Fishing Gear

(1) No person shall fish for Pacific halibut using any gear other than hook and line gear,

(a) except that a person may retain Pacific halibut taken with longline or single trap gear if such retention is authorized by DFO as defined by Pacific Fishery Regulations and Conditions of Licence; or

(b) except that a person may retain Pacific halibut taken with longline or single pot gear if such retention is authorized by NOAA Fisheries regulations published at 50 CFR part 679.

(2) No person shall possess Pacific halibut taken with any gear other than hook and line gear,

(a) except that a person may possess Pacific halibut taken with longline or single trap gear if such retention is authorized by DFO as defined by Pacific Fishery Regulations and Conditions of Licence; or

(b) except that a person may possess Pacific halibut taken with longline or single pot gear if such possession is authorized by NOAA Fisheries regulations published at 50 CFR part 679.

(3) No person shall possess Pacific halibut while on board a vessel carrying any trawl nets.

(4) All gear marker buoys carried on board or used by any United States of America vessel used for Pacific halibut fishing shall be marked with one of the following:

(a) The vessel's State license number; or

(b) the vessel's registration number.

(5) The markings specified in paragraph (4) shall be in characters at least four inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.

(6) All gear marker buoys carried on board or used by a Canadian vessel used for Pacific halibut fishing shall be:

(a) Floating and visible on the surface of the water; and

(b) legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.

(7) No person on board a vessel used to fish for any species of fish anywhere in IPHC Regulatory Area 2A during the 72-hour period immediately before the fishing period for the directed commercial fishery shall catch or possess Pacific halibut anywhere in those waters during that Pacific halibut fishing period unless, prior to the start of the Pacific halibut fishing period, the vessel has removed its gear from the water and has either:

(a) Made a landing and completely offloaded its catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(8) No vessel used to fish for any species of fish anywhere in IPHC Regulatory Area 2A during the 72-hour period immediately before the fishing period for the directed commercial fishery may be used to catch or possess Pacific halibut anywhere in those waters during that Pacific halibut fishing period unless, prior to the start of the Pacific halibut fishing period, the vessel has removed its gear from the water and has either:

(a) Made a landing and completely offloaded its catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(9) No person on board a vessel used to fish for any species of fish anywhere in IPHC Regulatory Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the Pacific halibut fishing season shall catch or possess Pacific halibut anywhere in those areas until the vessel has removed all of its gear from the water and has either:

(a) Made a landing and completely offloaded its entire catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(10) No vessel used to fish for any species of fish anywhere in IPHC Regulatory Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the Pacific halibut fishing season may be used to catch or possess Pacific halibut anywhere in those areas until the vessel has removed all of its gear from the water and has either:

(a) Made a landing and completely offloaded its entire catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(11) Notwithstanding any other provision in these Regulations, a person may retain, possess and dispose of Pacific halibut taken with trawl gear only as authorized by Prohibited Species Donation regulations of NOAA Fisheries.

19. Size Limits

(1) No person shall take or possess any Pacific halibut that:

(a) With the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail, as illustrated in Figure 2; or

(b) with the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail, as illustrated in Figure 2.

(2) No person on board a vessel fishing for, or tendering, Pacific halibut in any IPHC Regulatory Area shall possess any Pacific halibut that has had its head removed, except that Pacific halibut frozen at sea with its head removed may be possessed on board a vessel by persons in IPHC Regulatory Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E if authorized by Federal regulations.

(3) The size limit in paragraph (1)(b) will not be applied to any Pacific halibut that has had its head removed after the operator has landed the Pacific halibut.

20. Logs

(1) The operator of any U.S. vessel fishing for Pacific halibut that has an overall length of 26 feet (7.9 meters) or greater shall maintain an accurate log of Pacific halibut fishing operations. The operator of a vessel fishing in waters in and off Alaska must use one of the following logbooks: The Groundfish/IFQ Longline and Pot Gear Daily Fishing Logbook, in electronic or paper form, provided by NOAA Fisheries; the Alaska hook-and-line logbook provided by Petersburg Vessel Owners Association or Alaska Longline Fishermen's Association; the Alaska Department of Fish and Game (ADFG) longline-pot logbook; or the logbook provided by IPHC. The operator of a vessel fishing in IPHC Regulatory Area 2A must use either the WDFW Voluntary Sablefish Logbook, Oregon Department of Fish and Wildlife (ODFW) Fixed Gear Logbook, or the logbook provided by IPHC.

(2) The logbook referred to in paragraph (1) must include the following information:

(a) The name of the vessel and the State (ADFG, WDFW, ODFW, or CDFW) or Tribal ID number;

(b) the date(s) upon which the fishing gear is set or retrieved;

(c) the latitude and longitude coordinates or a direction and distance from a point of land for each set or day;

(d) the number of skates deployed or retrieved, and number of skates lost; and

(e) the total weight or number of Pacific halibut retained for each set or day.

(3) The logbook referred to in paragraph (1) shall be:

(a) Maintained on board the vessel;

(b) updated not later than 24 hours after 0000 (midnight) local time for each day fished and prior to the offloading or sale of Pacific halibut taken during that fishing trip;

(c) retained for a period of two years by the owner or operator of the vessel;

(d) open to inspection by an authorized officer or any authorized representative of the Commission upon demand; and

(e) kept on board the vessel when engaged in Pacific halibut fishing, during transits to port of landing, and until the offloading of all Pacific halibut is completed.

(4) The log referred to in paragraph (1) does not apply to the incidental Pacific halibut fishery during the salmon troll season in IPHC Regulatory Area 2A defined in paragraph (6) of Section 9.

(5) The operator of any Canadian vessel fishing for Pacific halibut shall maintain an accurate record in the British Columbia Integrated Groundfish Fishing Log.

(6) The log referred to in paragraph (5) must include the following information:

(a) The name of the vessel and the DFO vessel registration number;

(b) the date(s) upon which the fishing gear is set and retrieved;

(c) the latitude and longitude coordinates for each set;

(d) the number of skates deployed or retrieved, and number of skates lost; and

(e) the total weight or number of Pacific halibut retained for each set.

(7) The log referred to in paragraph (5) shall be:

(a) Maintained on board the vessel;

(b) retained for a period of two years by the owner or operator of the vessel;

(c) open to inspection by an authorized officer or any authorized representative of the Commission upon demand;

(d) kept on board the vessel when engaged in Pacific halibut fishing, during transits to port of landing, and until the offloading of all Pacific halibut is completed;

(e) submitted to the DFO within seven days of offloading; and

(f) submitted to the Commission within seven days of the final offload if not previously collected by a Commission employee.

(8) No person shall make a false entry in a log referred to in this Section.

21. Receipt and Possession of Pacific Halibut

(1) No person shall receive Pacific halibut caught in IPHC Regulatory Area 2A from a United States of America vessel that does not have on board the license required by Section 15.

(2) No person shall possess on board a vessel a Pacific halibut other than whole or with gills and entrails removed, except that this paragraph shall not prohibit the possession on board a vessel of:

(a) Pacific halibut cheeks cut from Pacific halibut caught by persons authorized to process the Pacific halibut on board in accordance with NOAA Fisheries regulations published at 50 CFR part 679;

(b) fillets from Pacific halibut offloaded in accordance with Section 21 that are possessed on board the harvesting vessel in the port of landing up to 1800 local time on the calendar day following the offload; [4] and

(c) Pacific halibut with their heads removed in accordance with Section 19.

(3) No person shall offload Pacific halibut from a vessel unless the gills and entrails have been removed prior to offloading.[5]

(4) It shall be the responsibility of a vessel operator who lands Pacific halibut to continuously and completely offload at a single offload site all Pacific halibut on board the vessel.

(5) A registered buyer (as that term is defined in regulations promulgated by NOAA Fisheries and codified at 50 CFR part 679) who receives Pacific halibut harvested in IFQ and CDQ fisheries in IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, directly from the vessel operator that harvested such Pacific halibut must weigh all the Pacific halibut received and record the following information on Federal catch reports: Date of offload; name of vessel; vessel number (State, Tribal or Federal, not IPHC vessel number); scale weight obtained at the time of offloading, including the scale weight (in pounds) of Pacific halibut purchased by the registered buyer, the scale weight (in pounds) of Pacific halibut offloaded in excess of the IFQ or CDQ, the scale weight of Pacific halibut (in pounds) retained for personal use or for future sale, and the scale weight (in pounds) of Pacific halibut discarded as unfit for human consumption. All Pacific halibut harvested in IFQ or CDQ fisheries in Areas IPHC Regulatory 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, must be weighed with the head on and the head-on weight must be recorded on Federal catch reports as specified in this paragraph, unless the Pacific halibut is frozen at sea and exempt from the head-on landing requirement at Section 19(2).

(6) The first recipient, commercial fish processor, or buyer in the United States of America who purchases or receives Pacific halibut directly from the vessel operator that harvested such Pacific halibut must weigh and record all Pacific halibut received and record the following information on State fish tickets: The date of offload; vessel number (State or Federal, not IPHC vessel number) or Tribal ID number; total weight obtained at the time of offload including the weight (in pounds) of Pacific halibut purchased; the weight (in pounds) of Pacific halibut offloaded in excess of the IFQ, CDQ, or fishing period limits; the weight of Pacific halibut (in pounds) retained for

[4] DFO has more restrictive regulations; therefore, Section 21 paragraph (2)(b) does not apply to fish caught in IPHC Regulatory Area 2B or landed in British Columbia.

[5] DFO did not adopt this regulation; therefore, Section 21 paragraph (3) does not apply to fish caught in IPHC Regulatory Area 2B.

personal use or for future sale; and the weight (in pounds) of Pacific halibut discarded as unfit for human consumption. All Pacific halibut harvested in fisheries in IPHC Regulatory Areas 2A, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E must be weighed with the head on and the head-on weight must be recorded on State fish tickets as specified in this paragraph, unless the Pacific halibut is frozen at sea and exempt from the head-on landing requirement at Section 19(2).

(7) For Pacific halibut landings made in Alaska, the requirements as listed in paragraphs (5) and (6) can be met by recording the information in the Interagency Electronic Reporting Systems, eLandings, in accordance with NOAA Fisheries regulation published at 50 CFR part 679.

(8) The master or operator of a Canadian vessel that was engaged in Pacific halibut fishing must weigh and record all Pacific halibut on board said vessel at the time offloading commences and record on Provincial fish tickets or Federal catch reports: The date; locality; name of vessel; the name(s) of the person(s) from whom the Pacific halibut was purchased; and the scale weight obtained at the time of offloading of all Pacific halibut on board the vessel including the pounds purchased, pounds in excess of IVQs or ITQs, pounds retained for personal use, and pounds discarded as unfit for human consumption. All Pacific halibut must be weighed with the head on and the head-on weight must be recorded on the Provincial fish tickets or Federal catch reports as specified in this paragraph, unless the Pacific halibut is frozen at sea and exempt from the head-on landing requirement at Section 19(2).

(9) No person shall make a false entry on a State or Provincial fish ticket or a Federal catch or landing report referred to in paragraphs (5), (6), and (8) of this Section.

(10) A copy of the fish tickets or catch reports referred to in paragraphs (5), (6), and (8) shall be:

(a) Retained by the person making them for a period of three years from the date the fish tickets or catch reports are made; and

(b) open to inspection by an authorized officer or any authorized representative of the Commission.

(11) No person shall possess any Pacific halibut taken or retained in contravention of these Regulations.

(12) When Pacific halibut are landed to other than a commercial fish processor, the records required by paragraph (6) shall be maintained by the operator of the vessel from which that Pacific halibut was caught, in compliance with paragraph (10).

(13) No person shall tag Pacific halibut unless the tagging is authorized by IPHC permit or by a Federal or State agency.

22. Supervision of Unloading and Weighing

(1) The unloading and weighing of Pacific halibut may be subject to the supervision of authorized officers to assure the fulfillment of the provisions of these Regulations.

(2) The unloading and weighing of Pacific halibut may be subject to sampling by an authorized representative of the Commission.

23. Fishing by United States Indian Tribes

(1) Pacific halibut fishing in IPHC Regulatory Area Subarea 2A–1 by members of United States treaty Indian tribes located in the State of Washington shall be regulated under regulations promulgated by NOAA Fisheries and published in the **Federal Register**:

(a) Subarea 2A–1 includes the usual and accustomed fishing areas for Pacific Coast treaty tribes off the coast of Washington and all inland marine waters of Washington north of Point Chehalis (46°53.30′ N lat.), including Puget Sound. Boundaries of a tribe's fishing area may be revised as ordered by a United States Federal court;

(b) Section 15 (Licensing Vessels for IPHC Regulatory Area 2A) does not apply to commercial fishing for Pacific halibut in Subarea 2A–1 by Indian tribes; and

(c) ceremonial and subsistence fishing for Pacific halibut in Subarea 2A–1 is permitted with hook and line gear from 1 January through 31 December.

(2) In IPHC Regulatory Area 2C, the Metlakatla Indian Community has been authorized by the United States Government to conduct a commercial Pacific halibut fishery within the Annette Islands Reserve. Fishing periods for this fishery are announced by the Metlakatla Indian Community and the Bureau of Indian Affairs. Landings in this fishery are accounted with the commercial landings for IPHC Regulatory Area 2C.

(3) Section 7 (careful release of Pacific halibut), Section 18 (fishing gear), except paragraphs (7) and (8) of Section 18, Section 19 (size limits), Section 20 (logs), and Section 21 (receipt and possession of Pacific halibut) apply to commercial fishing for Pacific halibut by Indian tribes.

(4) Regulations in paragraph (3) of this Section that apply to State fish tickets apply to Tribal tickets that are authorized by WDFW and ADFG.

(5) Commercial fishing for Pacific halibut is permitted with hook and line gear between the dates specified in Section 9 paragraphs (2) and (3), or until the applicable fishery limit specified in Section 5 is taken, whichever occurs first.

24. Indigenous Groups Fishing for Food, Social and Ceremonial Purposes in British Columbia

(1) Fishing for Pacific halibut for food, social and ceremonial purposes by Indigenous groups in IPHC Regulatory Area 2B shall be governed by the *Fisheries Act* of Canada and regulations as amended from time to time.

25. Customary and Traditional Fishing in Alaska

(1) Customary and traditional fishing for Pacific halibut in IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall be governed pursuant to regulations promulgated by NOAA Fisheries and published in 50 CFR part 300.

(2) Customary and traditional fishing is authorized from 1 January through 31 December.

26. Recreational (Sport) Fishing for Pacific Halibut—General

(1) No person shall engage in recreational (sport) fishing for Pacific halibut using gear other than a single line with no more than two hooks attached; or a spear.

(2) Any size limit promulgated under IPHC or domestic regulations shall be measured in a straight line passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail as depicted in Figure 2.

(3) Any Pacific halibut brought aboard a vessel and not immediately returned to the sea with a minimum of injury will be included in the daily bag limit of the person catching the Pacific halibut.

(4) No person may possess Pacific halibut on a vessel while fishing in a closed area.

(5) No Pacific halibut caught by recreational (sport) fishing shall be offered for sale, sold, traded, or bartered.

(6) No Pacific halibut caught in recreational (sport) fishing shall be possessed on board a vessel when other fish or shellfish aboard said vessel are destined for commercial use, sale, trade, or barter.

(7) The operator of a charter vessel shall be liable for any violations of these Regulations committed by an angler on board said vessel. In Alaska, the charter vessel guide, as defined in 50 CFR

300.61 and referred to in 50 CFR 300.65, 300.66, and 300.67, shall be liable for any violation of these Regulations committed by an angler on board a charter vessel.

27. Recreational (Sport) Fishing for Pacific Halibut—IPHC Regulatory Area 2A

(1) The Commission shall determine and announce closing dates to the public for any area in which the fishery limits promulgated by NOAA Fisheries are estimated to have been taken.

(2) When the Commission has determined that a subquota under paragraph (7) of this Section is estimated to have been taken, and has announced a date on which the season will close, no person shall recreational (sport) fish for Pacific halibut in that area after that date for the rest of the year, unless a reopening of that area for recreational (sport) Pacific halibut fishing is scheduled in accordance with the Catch Sharing Plan for IPHC Regulatory Area 2A, or announced by the Commission.

(3) In California, Oregon, or Washington, no person shall fillet, mutilate, or otherwise disfigure a Pacific halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(4) The possession limit on a vessel for Pacific halibut in the waters off the coast of Washington is the same as the daily bag limit. The possession limit for Pacific halibut on land in Washington is two daily bag limits.

(5) The possession limit on a vessel for Pacific halibut caught in the waters off the coast of Oregon is the same as the daily bag limit. The possession limit for Pacific halibut on land in Oregon is three daily bag limits.

(6) The possession limit on a vessel for Pacific halibut caught in the waters off the coast of California is one daily bag limit. The possession limit for Pacific halibut on land in California is one daily bag limit.

(7) Specific regulations describing fishing periods, fishery limits, fishing dates, and daily bag limits are promulgated by NOAA Fisheries and published in the **Federal Register**.

28. Recreational (Sport) Fishing for Pacific Halibut—IPHC Regulatory Area 2B

(1) In all waters off British Columbia: [6] [7]

(a) The recreational (sport) fishing season will open on 1 February unless more restrictive regulations are in place;

(b) the recreational (sport) fishing season will close when the recreational (sport) fishery limit allocated by DFO is taken, or 31 December, whichever is earlier; and

(c) the daily bag limit is two (2) Pacific halibut of any size per day, per person, except that between 1 April 2021 and 31 March 2022 only, DFO may implement a daily bag limit of three (3) Pacific halibut per day, per person.

(2) In British Columbia, no person shall fillet, mutilate, or otherwise disfigure a Pacific halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(3) The possession limit for Pacific halibut in the waters off the coast of British Columbia is three Pacific halibut.[6] [7]

29. Recreational (Sport) Fishing for Pacific Halibut—IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, 4E

(1) In Convention waters in and off Alaska: [8] [9]

(a) The recreational (sport) fishing season is from 1 February to 31 December;

(b) the daily bag limit is two Pacific halibut of any size per day per person unless a more restrictive bag limit applies in Commission regulations or Federal regulations at 50 CFR 300.65;

(c) no person may possess more than two daily bag limits;

(d) no person shall possess on board a vessel, including charter vessels and pleasure craft used for fishing, Pacific halibut that have been filleted, mutilated, or otherwise disfigured in any manner, except that each Pacific halibut may be cut into no more than 2 ventral pieces, 2 dorsal pieces, and 2 cheek pieces, with a patch of skin on each piece, naturally attached;

(e) Pacific halibut in excess of the possession limit in paragraph (1)(c) of this Section may be possessed on a vessel that does not contain recreational (sport) fishing gear, fishing rods, hand lines, or gaffs;

(f) Pacific halibut harvested on a charter vessel fishing trip in IPHC Regulatory Areas 2C or 3A must be retained on board the charter vessel on which the Pacific halibut was caught until the end of the charter vessel fishing trip as defined at 50 CFR 300.61;

(g) guided angler fish (GAF), as described at 50 CFR 300.65, may be used to allow a charter vessel angler to harvest additional Pacific halibut up to the limits in place for unguided anglers, and are exempt from the requirements in paragraphs (2) and (3) of this Section; and

(h) if there is an annual limit on the number of Pacific halibut that may be retained by a charter vessel angler as defined at 50 CFR 300.61, for purposes of enforcing the annual limit, each charter vessel angler must:

(1) Maintain a nontransferable harvest record in the angler's possession if retaining a Pacific halibut for which an annual limit has been established. Such harvest record must be maintained either on the angler's State of Alaska recreational (sport) fishing license, an ADFG approved electronic harvest record, or on a Sport Fishing Harvest Record Card obtained, without charge, from ADFG offices, the ADFG website, or fishing license vendors;

(2) immediately upon retaining a Pacific halibut for which an annual limit has been established, permanently and legibly record the date, location (IPHC Regulatory Area), and species of the catch (Pacific halibut) on the harvest record; and

(3) record the information required by paragraph 1(h)(2) on any duplicate or additional recreational (sport) fishing license issued to the angler, duplicate electronic harvest record, or any duplicate or additional Sport Fishing Harvest Record Card obtained by the angler for all Pacific halibut previously retained during that year that were subject to the harvest record reporting requirements of this Section.

(2) For guided recreational (sport) fishing (as referred to in 50 CFR 300.65) in IPHC Regulatory Area 2C:

(a) No person on board a charter vessel (as referred to in 50 CFR 300.65) shall catch and retain more than one Pacific halibut per calendar day; and

(b) no person on board a charter vessel (as referred to in 50 CFR 300.65) shall catch and retain any Pacific halibut that with head on is greater than 40 inches (101.6 cm) and less than 80 inches (203.2 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with mouth closed, to the extreme end of the middle of the tail.

(3) For guided recreational (sport) fishing (as referred to in 50 CFR 300.65) in IPHC Regulatory Area 3A:

[6] DFO could implement more restrictive regulations for the recreational (sport) fishery, therefore anglers are advised to check the current Federal or Provincial regulations prior to fishing.

[7] For regulations on the experimental recreational fishery implemented by DFO check the current Federal or Provincial regulations.

[8] NOAA Fisheries could implement more restrictive regulations for the recreational (sport) fishery or components of it, therefore, anglers are advised to check the current Federal or State regulations prior to fishing.

[9] Charter vessels are prohibited from harvesting Pacific halibut in IPHC Regulatory Areas 2C and 3A during one charter vessel fishing trip under regulations promulgated by NOAA Fisheries at 50 CFR 300.66.

(a) No person on board a charter vessel (as referred to in 50 CFR 300.65) shall catch and retain more than two Pacific halibut per calendar day;

(b) at least one of the retained Pacific halibut must have a head-on length of no more than 28 inches (71.1 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with mouth closed, to the extreme end of the middle of the tail. If a person recreational (sport) fishing on a charter vessel in IPHC Regulatory Area 3A retains only one Pacific halibut in a calendar day, that Pacific halibut may be of any length;

(c) a ''charter halibut permit'' (as referred to in 50 CFR 300.67) may only be used for one charter vessel fishing trip in which Pacific halibut are caught and retained per calendar day. A charter vessel fishing trip is defined at 50 CFR 300.61 as the time period between the first deployment of fishing gear into the water by a charter vessel angler (as defined at 50 CFR 300.61) and the offloading of one or more charter vessel anglers or any Pacific halibut from that vessel. For purposes of this trip limit, a charter vessel fishing trip ends at 2359 (Alaska local time) on the same calendar day that the fishing trip began, or when any anglers or Pacific halibut are offloaded, whichever comes first;

(d) a charter vessel on which one or more anglers catch and retain Pacific halibut may only make one charter vessel fishing trip per calendar day. A charter vessel fishing trip is defined at 50 CFR 300.61 as the time period between the first deployment of fishing gear into the water by a charter vessel angler (as defined at 50 CFR 300.61) and the offloading of one or more charter vessel anglers or any Pacific halibut from that vessel. For purposes of this trip limit, a charter vessel fishing trip ends at 2359 (Alaska local time) on the same calendar day that the fishing trip began, or when any anglers or Pacific halibut are offloaded, whichever comes first; and

(e) no person on board a charter vessel may catch and retain Pacific halibut on any Wednesday, or on the following Tuesdays in 2022: July 26 and August 2.

30. Previous Regulations Superseded

These Regulations shall supersede all previous regulations of the Commission, and these Regulations shall be effective each succeeding year until superseded.

BILLING CODE 3510–22–P

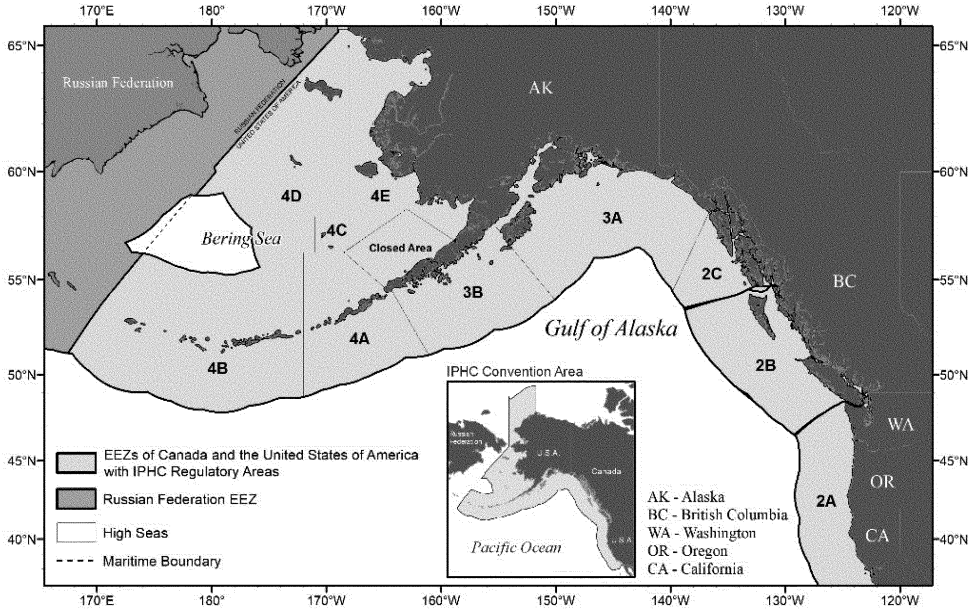

Figure 1. IPHC Regulatory areas for the Pacific halibut fishery.

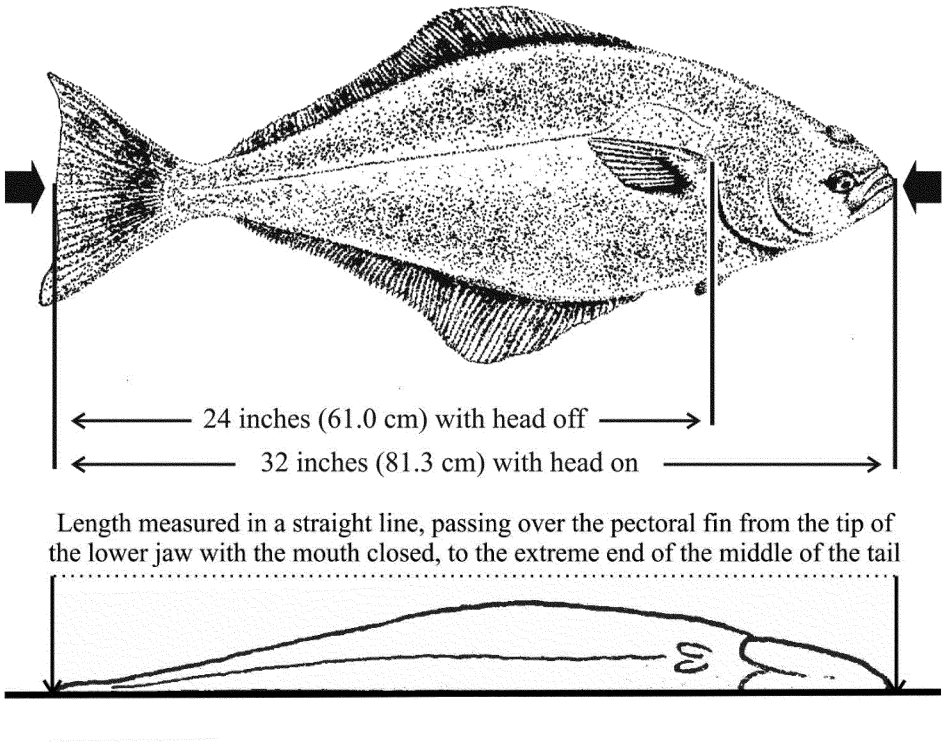

Figure 2. Minimum commercial size.

Classification

IPHC Regulations

These IPHC annual management measures are a product of an agreement between the United States and Canada and are published in the **Federal Register** to provide notice of their effectiveness and content. Pursuant to Section 4 of the Northern Pacific Halibut Act of 1982, 16 U.S.C. 773b, the Secretary of State, with the concurrence of the Secretary of Commerce, may accept or reject but not modify these recommendations of the IPHC. These regulations become effective when such acceptance and concurrence occur. The notice-and-comment and delay-in-effectiveness date provisions of the Administrative Procedure Act (APA), 5 U.S.C. 553(b) and (d), are inapplicable to IPHC management measures because these regulations involve a foreign affairs function of the United States, 5 U.S.C. 553(a)(1). As stated above, the Secretary of State has no discretion to modify the recommendations of the IPHC. The additional time necessary to comply with the notice-and-comment and delay-in-effectiveness requirements of the APA would disrupt coordinated international conservation and management of the halibut fishery pursuant to the Convention and the Northern Pacific Halibut Act of 1982.

The publication of these regulations in the **Federal Register** provide the affected public with notice that the IPHC management measures are in effect. Furthermore, no other law requires prior notice and public comment for this rule. Because 5 U.S.C. 553 or any other law does not require prior notice and an opportunity for public comment for this notice of the effectiveness of the IPCH's 2022 management measures, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Executive Order 12866 does not apply to this final rule because these measures pertain to a foreign affairs function of the United States.

The Paperwork Reduction Act of 1995 requires consideration of the impact of recordkeeping and other information collection burdens imposed on the public. Alaska state law establishes information collection requirements regarding harvest records for individual recreational anglers. *See* Alaska Admin. Code tit. 5, § 75.006(a) (2021). This final rule contains no new recordkeeping requirements beyond those contained in Alaska state law and therefore involves no additional collection of information burden. Moreover, because there is, at present, no annual limit on the number of Pacific halibut that may be retained by a charter vessel angler as defined at 50 CFR 300.61, the recordkeeping requirements referenced in section 29(1)(h) of the IPHC's Annual Management Measures do not apply during 2022.

Authority: 16 U.S.C. 773 *et seq.*

Dated: February 28, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2022–04639 Filed 3–4–22; 8:45 am]

BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 87, No. 44
Monday, March 7, 2022

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2019–BT–STD–0040]

RIN 1904–AE52

Energy Conservation Program: Energy Conservation Standards for Ceiling Fan Light Kits, Webinar and Availability of the Preliminary Technical Support Document

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notification of a webinar and availability of preliminary technical support document.

SUMMARY: The U.S. Department of Energy (DOE or the Department) will hold a webinar to discuss and receive comments on the preliminary analysis it has conducted for purposes of evaluating energy conservation standards for ceiling fan light kits (''CFLKs''). The meeting will cover the analytical framework, models, and tools that DOE is using to evaluate potential standards for this product; the results of preliminary analyses performed by DOE for this product; the potential energy conservation standard levels derived from these analyses that DOE could consider for this product should it determine that proposed amendments are necessary; and any other issues relevant to the evaluation of energy conservation standards for CFLKs. In addition, DOE encourages written comments on these subjects.

DATES:

Meeting: DOE will hold a webinar on Monday, April 11, 2022, from 2:30 p.m. to 4:00 p.m. See section IV, ''Public Participation,'' for webinar registration information, participant instructions and information about the capabilities available to webinar participants.

Comments: Written comments and information will be accepted on or before, May 6, 2022.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2019–BT–STD–0040, by any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email:* To *CFLK2019STD0040@ee.doe.gov.* Include docket number EERE–2019–BT–STD–0040 in the subject line of the message.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section IV of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including the Federal eRulemaking Portal, email, postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing coronavirus 2019 (COVID–19) pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the COVID–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, public meeting transcripts, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *www.regulations.gov/docket?D=EERE-2019-BT-STD-0040.* The docket web page contains instructions on how to access all documents, including public comments in the docket. See section IV for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Dr. Stephanie Johnson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Amelia Whiting, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–2588. Email: *Amelia.Whitting@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA

[1] All references to EPCA in this document refer to the statute as amended through the Infrastructure Investment and Jobs Act, Public Law 117–58 (Nov. 15, 2021).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include ceiling fan light kits (''CFLKs''), the subject of this document. (42 U.S.C. 6291(50), 42 U.S.C. 6293(16)(A)(ii), 42 U.S.C. 6295(ff)(2)–(5)).

EPCA prescribed energy conservation standards for these products. (42 U.S.C. 6295(ff)) EPCA further provides that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (''NOPR'') including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) Not later than three years after issuance of a final determination not to amend standards, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B))

Under EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

DOE is publishing this preliminary analysis to collect data and information to inform its decision consistent with its obligations under EPCA.

B. Rulemaking Process

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products, including CFLKs. As noted, EPCA requires that any new or amended energy conservation standard prescribed by the Secretary of Energy (''Secretary'') be designed to achieve the maximum improvement in energy efficiency (or water efficiency for certain products specified by EPCA) that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking.[3] For example, the United States rejoined the Paris Agreement on February 19, 2021. As part of that agreement, the United States has committed to reducing greenhouse gas (''GHG'') emissions in order to limit the rise in mean global temperature. As such, energy savings that reduce GHG emission have taken on greater importance. Additionally, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the energy infrastructure can be more pronounced than products with relatively constant demand. In evaluating the significance of energy savings, DOE considers differences in primary energy and full-fuel cycle (''FFC'') effects for different covered products and equipment when determining whether energy savings are significant. Primary energy and FFC effects include the energy consumed in electricity production (depending on load shape), in distribution and transmission, and in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus present a more complete picture of the impacts of energy conservation standards.

Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis. DOE estimates a combined total of 0.23 quads of FFC energy savings at the max-tech efficiency levels for CFLKs. This represents 22.7 percent energy savings relative to the no-new-standards case energy consumption for CFLKs. DOE has initially determined the energy savings for the candidate standard levels considered in this preliminary analysis are ''significant'' within the meaning of 42 U.S.C. 6295(o)(3)(B).

To determine whether a standard is economically justified, EPCA requires that DOE determine whether the benefits of the standard exceed its burdens by considering, to the greatest extent practicable, the following seven factors:

(1) The economic impact of the standard on the manufacturers and consumers of the products subject to the standard;

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard;

(3) The total projected amount of energy (or as applicable, water) savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary of Energy (Secretary) considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

DOE fulfills these and other applicable requirements by conducting a series of analyses throughout the rulemaking process. Table I.1 shows the individual analyses that are performed to satisfy each of the requirements within EPCA.

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS

EPCA requirement	Corresponding DOE analysis
Significant Energy Savings	• Shipments Analysis. • National Impact Analysis. • Energy Analysis.
Technological Feasibility	• Market and Technology Assessment. • Screening Analysis. • Engineering Analysis.
Economic Justification:	
1. Economic impact on manufacturers and consumers	• Manufacturer Impact Analysis. • Life-Cycle Cost and Payback Period Analysis. • Life-Cycle Cost Subgroup Analysis. • Shipments Analysis.

[3] See 86 FR 70892, 70901 (Dec. 13, 2021).

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS—Continued

EPCA requirement	Corresponding DOE analysis
2. Lifetime operating cost savings compared to increased cost for the product.	• Product Price Analysis. • Energy Analysis. • Life-Cycle Cost and Payback Period Analysis.
3. Total projected energy savings	• Shipments Analysis. • National Impact Analysis.
4. Impact on utility or performance	• Screening Analysis. • Engineering Analysis.
5. Impact of any lessening of competition	• Manufacturer Impact Analysis.
6. Need for national energy and water conservation	• Shipments Analysis. • National Impact Analysis.
7. Other factors the Secretary considers relevant	• Employment Impact Analysis. • Utility Impact Analysis. • Emissions Analysis. • Monetization of Emission Reductions Benefits.[4] • Regulatory Impact Analysis.

Further, EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii))

EPCA also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Additionally, EPCA specifies requirements when promulgating an energy conservation standard for a covered product that has two or more subcategories. DOE must specify a different standard level for a type or class of product that has the same function or intended use, if DOE determines that products within such group: (A) Consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

Finally, pursuant to the amendments contained in the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140, any final rule for new or amended energy conservation standards promulgated after July 1, 2010, is required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into a single standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) DOE published a final rule amending test procedures for CFLKs on December 24, 2015. 80 FR 80209 (''December 2015 Final Rule''). In the December 2015 Final Rule, DOE specified that CFLKs do not consume power in off mode. Further, the December 2015 Final Rule stated that the energy use in standby mode is attributable to the ceiling fan to which the CFLK is attached and accounted for in the ceiling fan efficiency metric. 80 FR 80209, 80220. Therefore, DOE's test procedures and standards for CFLKs address energy consumption only in active mode, as do the considered standards in this preliminary analysis.

Before proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools that DOE intends to use to evaluate standards for the product at issue and the results of preliminary analyses DOE performed for the product.

DOE is examining whether to amend the current standards pursuant to its obligations under EPCA. This notification announces the availability of the preliminary TSD, which details the preliminary analyses and summarizes the preliminary results of DOE's analyses. In addition, DOE is announcing a public meeting to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

C. Deviation From Appendix A

In accordance with section 3(a) of 10 CFR part 430, subpart C, appendix A (''appendix A''), DOE notes that it is deviating from the provision in appendix A regarding the pre-NOPR stages for an energy conservation standards rulemaking. Section 6(a)(2) of appendix A states that if the Department determines it is appropriate to proceed with a rulemaking, the preliminary stages of a rulemaking to issue or amend an energy conservation standard that DOE will undertake will be a framework document and preliminary analysis, or an advance notice of proposed rulemaking (''ANOPR''). DOE is opting to deviate from this step by publishing a preliminary analysis without a framework document. A framework document is intended to introduce and summarize generally the various analyses DOE conducts during the rulemaking process and requests initial feedback from interested parties. As discussed further in the following section, prior to this notification of the

[4] Currently, in compliance with the preliminary injunction issued on February 11, 2022, in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.), DOE is not monetizing the costs of greenhouse gas emissions.

preliminary analysis, DOE issued an early assessment request for information (''RFI'') in which DOE requested comment on whether the methodologies, assumptions, and data used in the most recent energy conservation standards rulemaking [5] (the ''January 2016 Final Rule'') remained appropriate. 86 FR 29954, 29954–29962 (June 4, 2021) (the ''June 2021 RFI''). While DOE received comments on several areas of analyses including technology options, product classes, efficiency levels, market trends, and energy use analysis, DOE did not receive comments or data suggesting DOE rely on a different analytical framework to that conducted for the January 2016 Final Rule. As DOE is intending to rely on substantively the same analytical methods as in the most recent rulemaking, publication of a framework document would not introduce an analytical framework different from that on which comment was requested in the early assessment RFI and on which comment was received. As such, DOE is not publishing a framework document.

Section 6(d)(2) of appendix A specifies that the length of the public comment period for pre-NOPR rulemaking documents will vary depending upon the circumstances of the particular rulemaking, but will not be less than 75 calendar days. For this preliminary analysis, DOE has opted to instead provide a 60-day comment period. For this preliminary analysis, DOE has relied on substantively the same analytical framework as used in the previous rulemaking and DOE did not receive comments in response to the June 2021 RFI suggesting a change to DOE's approach. Given that DOE is relying on substantively the same analytical approach as conducted for the January 2016 Final Rule, DOE has determined that a 60-day comment period in conjunction with the June 2021 RFI provides sufficient time for interested parties to review the tentative methodologies and the preliminary analysis, and develop comments.

II. Background

A. Current Standards

In the January 2016 Final Rule, DOE prescribed the current energy conservation standards for CFLKs manufactured on and after January 7, 2019. 81 FR 580. Subsequently, DOE published a final rule that changed the compliance date from January 7, 2019 to January 21, 2020 to comply with Public Law 115–161, ''Ceiling Fan Energy Conservation Harmonization Act'' (the ''Act''), which was signed into law on April 3, 2018. 83 FR 22587 (May 16, 2018). The Act amended the compliance date for the CFLK standards to establish a single compliance date for the energy conservation standards for both CFLKs and ceiling fans. *Id.* These standards are set forth in DOE's regulations at 10 CFR 430.32(s)(6) and are repeated in Table II.1 and Table II.2.

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR CFLKS

Product type	Lamp lumens (*lumens*)	Minimum efficacy (*lm/W*)
All CFLKs	<120	50.
	≥120	74.0–29. 42*0.9983.^{lumens}

Ceiling fan light kits with medium screw base sockets (''MSB'') manufactured on or after January 21, 2020 and packaged with compact fluorescent lamps must include lamps that also meet the requirements in Table II.2 of this document. (10 CFR 430.32(s)(6)(i)) Ceiling fan light kits with pin based sockets for fluorescent lamps, manufactured on or after January 21, 2020, must use an electronic ballast. (10 CFR 430.32(s)(6)(ii)).

TABLE II.2—FEDERAL ENERGY CONSERVATION STANDARDS FOR CFLKS WITH MSB SOCKETS PACKAGED WITH CFLS

Lumen Maintenance at 1,000 hours	≥90.0%.
Lumen Maintenance at 40 Percent of Lifetime.	≥80.0%.
Rapid Cycle Stress Test	Each lamp must be cycled once for every 2 hours of lifetime of compact fluorescent lamp as defined in § 430.2. At least 5 lamps must meet or exceed the minimum number of cycles.
Lifetime	≥6,000 hours for the sample of lamps.

B. Current Process

As noted in section I.C, on June 4, 2021, DOE published the June 2021 RFI, a notification that it was initiating an early assessment review to determine whether any new or amended standards would satisfy the relevant requirements of EPCA for a new or amended energy conservation standard for CFLKs and a request for information. 86 FR 29954. Specifically, through the published notice and request for information, DOE sought data and information that could enable the agency to determine whether DOE should propose a ''no new standard'' determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of foregoing. *Id.*

Comments received to date as part of the current process have helped DOE identify and resolve issues related to the preliminary analyses. Chapter 2 of the preliminary TSD summarizes and addresses the comments received.

III. Summary of the Analyses Performed by DOE

For the products covered in this preliminary analysis, DOE conducted in-depth technical analyses in the following areas: (1) Engineering; (2) consumer product price; (3) energy use; (4) life cycle cost (''LCC'') and payback period (''PBP''); and (5) national impacts. The preliminary TSD that presents the methodology and results of each of these analyses is available at *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=10.*

DOE also conducted, and has included in the preliminary TSD, several other analyses that support the major analyses or are preliminary analyses that will be expanded if DOE determines that a NOPR is warranted to propose amended energy conservation standards. These analyses include: (1) The market and technology assessment; (2) the screening analysis, which contributes to the engineering analysis; and (3) the shipments analysis, which contributes to the LCC and PBP analysis and the national impact analysis (''NIA''). In addition to these analyses, DOE has begun preliminary work on the manufacturer impact analysis and has identified the methods to be used for the consumer subgroup analysis, the emissions analysis, the employment impact analysis, the regulatory impact analysis, and the utility impact analysis.

[5] See 81 FR 580 (January 6, 2016).

DOE will expand on these analyses in the NOPR should one be issued.

A. Market and Technology Assessment

DOE develops information in the market and technology assessment that provides an overall picture of the market for the products concerned, including general characteristics of the products, the industry structure, manufacturers, market characteristics, and technologies used in the products. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment include: (1) A determination of the scope of the rulemaking and product classes, (2) manufacturers and industry structure, (3) existing efficiency programs, (4) shipments information, (5) market and industry trends, and (6) technologies or design options that could improve the energy efficiency of the product.

See chapter 3 of the preliminary TSD for further discussion of the market and technology assessment.

B. Screening Analysis

DOE uses the following five screening criteria to determine which technology options are suitable for further consideration in an energy conservation standards rulemaking:

(1) *Technological feasibility.* Technologies that are not incorporated in commercial products or in working prototypes will not be considered further.

(2) *Practicability to manufacture, install, and service.* If it is determined that mass production and reliable installation and servicing of a technology in commercial products could not be achieved on the scale necessary to serve the relevant market at the time of the projected compliance date of the standard, then that technology will not be considered further.

(3) *Impacts on product utility or product availability.* If it is determined that a technology would have a significant adverse impact on the utility of the product for significant subgroups of consumers or would result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not be considered further.

(4) *Adverse impacts on health or safety.* If it is determined that a technology would have significant adverse impacts on health or safety, it will not be considered further.

(5) *Unique-pathway proprietary technologies.* If a design option utilizes proprietary technology that represents a unique pathway to achieving a given efficiency level, that technology will not be considered further due to the potential for monopolistic concerns. 10 CFR part 430, subpart C, appendix A, sections 6(b)(3) and 7(b).

If DOE determines that a technology, or a combination of technologies, fails to meet one or more of the listed five criteria, it will be excluded from further consideration in the engineering analysis.

See chapter 4 of the preliminary TSD for further discussion of the screening analysis.

C. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of CFLKs. There are two elements to consider in the engineering analysis; the selection of efficiency levels to analyze (*i.e.,* the ''efficiency analysis'') and the determination of product cost at each efficiency level (*i.e.,* the ''cost analysis''). In determining the performance of higher-efficiency products, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each product class, DOE estimates the consumer price for the baseline as well as higher efficiency levels. The output of the engineering analysis is a set of cost-efficiency ''curves'' that are used in downstream analyses (*i.e.,* the LCC and PBP analyses and the NIA). In this preliminary analysis, DOE derives efficiency levels in the engineering analysis and associated consumer prices in the cost analysis. DOE estimates the consumer price of the light source packaged with the CFLK directly because reverse-engineering a light source is impractical as the light source is not easily disassembled. By combining the results of the engineering analysis and the cost analysis, DOE derives typical inputs for use in LCC and NIA.

See Chapter 5 of the preliminary TSD for additional detail on the engineering analysis.

D. Energy Use Analysis

The purpose of the energy use analysis is to determine the annual energy consumption of CFLKs at different efficiencies in representative U.S. single-family homes, multi-family residences, and commercial buildings, and to assess the energy savings potential of increased CFLK efficiency. The energy use analysis estimates the range of energy use of CFLKs in the field (*i.e.,* as they are actually used by consumers). The energy use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs that could result from adoption of amended or new standards.

Chapter 6 of the preliminary TSD addresses the energy use analysis.

E. Life-Cycle Cost and Payback Period Analyses

The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE used the following two metrics to measure consumer impacts:

- The LCC is the total consumer expense of an appliance or product over the life of that product, consisting of total installed cost (manufacturer selling price, distribution chain markups, sales tax, and installation costs) plus operating costs (expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product.
- The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change in annual operating cost for the year that amended or new standards are assumed to take effect.

Chapter 7 of the preliminary TSD addresses the LCC and PBP analyses.

F. National Impact Analysis

The NIA estimates the national energy savings (''NES'') and the net present value (''NPV'') of total consumer costs and savings expected to result from amended standards at specific efficiency levels (referred to as candidate standard levels).[6] DOE calculates the NES and NPV for the potential standard levels considered based on projections of annual product shipments, along with the annual energy consumption and total installed cost data from the energy use and LCC analyses. For the present analysis, DOE projected the energy savings, operating cost savings, product costs, and NPV of consumer benefits

[6] The NIA accounts for impacts in the 50 states and U.S. territories.

over the lifetime of CFLKs sold from 2027 through 2056.

DOE evaluates the impacts of new or amended standards by comparing a case without such standards with standards-case projections (''no-new-standards case''). The no-new-standards case characterizes energy use and consumer costs for CFLKs in the absence of new or amended energy conservation standards. For this projection, DOE considers historical trends in efficiency and various forces that are likely to affect the mix of efficiencies over time. DOE compares the no-new-standards case with projections characterizing the market for each product class if DOE adopted new or amended standards at specific energy efficiency levels for that class. For each efficiency level, DOE considers how a given standard would likely affect the market shares of products with efficiencies greater than the standard.

DOE uses a software package written in the Python programming language to calculate the energy savings and the national consumer costs and savings at each standard level and in the no-new-standards case. The NIA model uses average values (as opposed to probability distributions) as inputs. Critical inputs to this analysis include shipments projections, estimated product lifetimes, product installed costs and operating costs, product annual energy consumption, the no-standards-case efficiency projection, and discount rates.

DOE estimates a combined total of 0.083 quads of site energy savings at the max- tech efficiency levels for CFLKs. Combined site energy savings at CSL 1 for All CFLKs are estimated to be 0.003 quads.

Chapter 9 of the preliminary TSD addresses the NIA.

IV. Public Participation

DOE invites public participation in this process through participation in the webinar and submission of written comments and information. After the webinar and the closing of the comment period, DOE will consider all timely-submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses. Following such consideration, the Department will publish either a determination that the standards for CFLKs need not be amended or a NOPR proposing to amend those standards. The NOPR, should one be issued, would include proposed energy conservation standards for the products covered by that rulemaking, and members of the public would be given an opportunity to submit written and oral comments on the proposed standards.

A. Participation in the Webinar

The time and date for the webinar meeting are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=10.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this document, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit such request to *ApplianceStandardsQuestions@ee.doe.gov.* Persons who wish to speak should include with their request a computer file in Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least two weeks before the webinar. At its discretion, DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Office. As necessary, requests to give an oral presentation should ask for such alternative arrangements.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the rulemaking.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this document, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this document. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time allows, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this document. The official conducting the webinar meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the webinar.

A transcript of the webinar meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this document. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE invites all interested parties, regardless of whether they participate in the public meeting, to submit in writing by May 6, 2022, comments and information on matters addressed in this notification and on other matters relevant to DOE's consideration of amended energy conservations standards for CFLKs. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via *www.regulations.gov.* The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your

contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. If this instruction is followed, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov.* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notification of a webinar and availability of preliminary technical support document.

Signing Authority

This document of the Department of Energy was signed on March 1, 2022 by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 2, 2022.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2022–04772 Filed 3–4–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0151; Project Identifier MCAI–2021–00521–A]

RIN 2120–AA64

Airworthiness Directives; Costruzioni Aeronautiche Tecnam S.P.A. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Costruzioni Aeronautiche Tecnam S.P.A. Model P2012 Traveller airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as free play in the trim tab actuator and trim tab surface. This proposed AD would require repetitively inspecting the trim tab trailing edge to determine if free play exists and taking corrective actions as needed. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by April 21, 2022.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12 140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5

p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Costruzioni Aeronautiche Tecnam S.P.A., Airworthiness Office Via S. D'acquisto 62, Boscotrecase, 80042, Italy; phone: +39 0823 997538; email: *traveller.support@Tecnam.com;* website: *https://www.Tecnam.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0151; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the MCAI, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4165; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2022–0151; Project Identifier MCAI–2021–00521–A'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Jim Rutherford, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0119, dated April 30, 2021 (referred to after this as ''the MCAI''), to address the unsafe condition on certain serial-numbered Costruzioni Aeronautiche Tecnam S.P.A. Model P2012 Traveller airplanes. The MCAI states:

> Occurrences have been reported of vibration in the horizontal stabiliser control yoke and pedals, both sides. The subsequent investigation identified free play in the trim tab actuator and trim tab surface.
>
> This condition, if not detected and corrected, could lead to a significant free play on the trim tab connection, with consequent increase in dynamic loads and vibrations, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, TECNAM issued the [Service Bulletin] SB to provide inspection instructions.
>
> For the reasons described above, this [EASA] AD requires repetitive inspections of the trim tab trailing edge and, depending on findings, accomplishment of applicable corrective action(s).

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0151.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Tecnam Service Bulletin 398–CS–Edition 2, Rev. 1, dated August 17, 2020. The service information specifies procedures for inspecting the trim tab trailing edge to determine if free play exists and taking corrective actions as needed.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

The FAA also reviewed Tecnam Service Bulletin 398–CS–Edition 2, Rev. 0, dated August 5, 2020. The service information specifies procedures for inspecting the trim tab trailing edge to determine if free play exists and taking corrective actions as needed.

In addition, the FAA reviewed Tecnam Job Card No. 1249 Ed.1, Rev.1, dated May 5, 2021. The service information specifies procedures for servicing free play of the mechanical trim actuator.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this NPRM after determining the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements

This AD requires accomplishing the actions specified in the service information already described.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 21 products of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Trim tab surface free play inspection.	1 work-hour × $85 per hour = $85.	Not applicable ...	$85 per inspection cycle ..	$1,785 per inspection cycle.

The FAA estimates the following costs to do any necessary actions that would be required based on the results of the proposed inspection. The FAA has no way of determining the number of airplanes that might need these actions.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Trim actuator free play inspection	2 work-hours × $85 per hour = $170	Not applicable	$170
Trim actuator servicing	2 work-hours × $85 per hour = $170	$100	270
Trim actuator replacement	1 work-hour × $85 per hour = $85	1,000	1,085

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Would not be a ''significant regulatory action'' under Executive Order 12866,

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Costruzioni Aeronautiche Tecnam S.P.A.: Docket No. FAA–2022–0151; Project Identifier MCAI–2021–00521–A.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 21, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Costruzioni Aeronautiche Tecnam S.P.A. Model P2012 Traveller airplanes, serial numbers 002 through 030 inclusive, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2731: Elevator Tab Control System.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as free play in the trim tab actuator and trim tab surface. The FAA is issuing this AD to detect and correct free play in the trim tab connection, which could lead to reduced airplane control.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Trim Tab Surface Free Play Inspection and Maintenance

Within 100 hours time-in-service (TIS) after the effective date of this AD and thereafter at intervals not to exceed 100 hours TIS, measure the trim tab surface for free play in accordance with Appendix A, Accomplishment Instructions, section 2 (Step 1—Trim Tab surface free play measurement) on pages 3 and 4 of Tecnam Service Bulletin 398–CS–Edition 2, Rev. 1, dated August 17, 2020 (Tecnam SB 398–CS–Edition 2, Rev. 1). If there is free play that exceeds the allowable tolerance, before further flight, measure the trim tab actuator for free play and take any corrective actions in accordance with Appendix A, Accomplishment Instructions, section 3 (Step 2—Trim Actuator free play measurement) on page 5 of Tecnam SB 398–CS–Edition 2, Rev 1.

(h) Credit for Previous Actions

You may take credit for the initial inspection required by paragraph (g) of this AD if you performed that action before the effective date of this AD using Tecnam Service Bulletin 398–CS–Edition 2, Rev. 0, dated August 5, 2020.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation

Branch, send it to the attention of the person identified in paragraph (j)(1) of this AD and email to: *9-AVS-AIR-730-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

(1) For more information about this AD, contact Jim Rutherford, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4165; email: *jim.rutherford@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2021–0119, dated April 30, 2021, for more information. You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0151.

(3) For service information identified in this AD, contact Costruzioni Aeronautiche Tecnam S.P.A., Airworthiness Office, Via S. D'acquisto 62, Boscotrecase, 80042, Italy; phone: +39 0823 997538; email: *traveller.support@Tecnam.com;* website: *https://www.Tecnam.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

Issued on February 25, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–04638 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0162; Airspace Docket No. 22–AAL–12]

RIN 2120–AA66

Proposed Revocation of Colored Federal Airway Green 15 (G–15); St. Mary's, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revoke Colored Federal airway Green 15 (G–15) due to the decommissioning of St. Mary's, AK, (SMA) and Takotna River, AK, (VTR) Non-directional Beacons (NDB).

DATES: Comments must be received on or April 21, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2022–0162; Airspace Docket No. 22–AAL–12 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Christopher McMullin, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System (NAS).

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2022–0162; Airspace Docket No. 22–AAL–12) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–0162; Airspace Docket No. 22–AAL–12.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Western Service Center, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points,

dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from the dependency on NDBs. The advances in technology have allowed for alternate navigation methods to support decommissioning of high cost ground navigation equipment. The FAA has included SMA and VTR on their schedule to be decommissioned effective February 23, 2023. A non-rulemaking study was conducted in 2021 in accordance with FAA Order JO 7400.2, Procedures for Handling Airspace Matters. As a result, the FAA received no objections to its removal.

Colored Federal airway G–15 is dependent upon SMA and VTR and will result in the airway being unusable once the decommissioning occurs. The FAA is proposing to revoke G–15 as a result. To mitigate the loss of G–15, the FAA has a planned United States Navigation (RNAV) route, T–286, and VHF Omnidirectional Radar (VOR) Federal airway V–510 which overlays the segment of the route between the Anvik Airport and the McGrath Airport in Alaska.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to revoke Colored Federal airway G–15 due to the decommissioning of SMA and VTR.

Colored Federal airway G–15 currently navigates between the St. Mary's, AK, NDB and the Takotna River, AK, NDB. The FAA proposes to revoke G–15 in its entirety.

Colored Federal airways are published in paragraph 6009(a) of FAA Order JO 7400.11F dated August 10, 2021 and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Colored Federal airway listed in this document would be published subsequently in FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6009(a) Colored Federal Airways.

* * * * *

G–15 [Remove]

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Issued in Washington, DC, on March 2, 2022.

Michael R. Beckles,

Manager, Rules and Regulations Group.

[FR Doc. 2022–04721 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2021–0662; FRL–9465–01–R3]

Air Plan Approval; Maryland; Nonattainment New Source Review Requirements for 2015 8-Hour Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and withdrawal of a prior proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Maryland Department of the Environment (MDE) on behalf of the State of Maryland (Maryland). This revision certifies that Maryland's existing nonattainment new source review (NNSR) program, covering the Baltimore nonattainment area, the Philadelphia-Wilmington-Atlantic City nonattainment area, and the Washington, DC nonattainment area for the 2008 8-hour ozone national ambient air quality standards (NAAQS), is at least as stringent as applicable Federal requirements. EPA is proposing to approve this revision in accordance with the requirements of the Clean Air Act (CAA). Additionally, EPA is withdrawing a prior proposed approval of a related Maryland SIP submittal regarding ozone interprecursor trading.

DATES: The proposed rule published on October 27, 2020 (85 FR 68029) is withdrawn as of March 7, 2022. Written comments on the proposed approval must be received on or before April 6, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2021–0662 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located

outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Yongtian He, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2339. Mr. He can also be reached via electronic mail at *He.Yongtian@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 3, 2020, MDE submitted SIP #20–05: ''Nonattainment New Source Review (NNSR) Certification for the State of Maryland 2015 Ozone NAAQS Nonattainment Areas,'' (#20–05) as a revision to Maryland's SIP. In this SIP revision, MDE is certifying that its existing NNSR program, covering the Baltimore nonattainment area (which includes Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties and the city of Baltimore), the Maryland portion of Philadelphia-Wilmington-Atlantic City nonattainment area (which includes Cecil County in Maryland), and the Maryland portion of the Washington, DC nonattainment area (which includes Calvert, Charles, Frederick, Montgomery, and Prince Georges Counties in Maryland) for the 2015 8-hour ozone NAAQS, is at least as stringent as the requirements at 40 CFR 51.165 for ozone and its precursors.

On October 1, 2015 (effective December 28, 2015), EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm). 80 FR 65292 (October 26, 2015). Under EPA's regulations at 40 CFR 50.19, the 2015 8-hour ozone NAAQS is attained when the three-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to 0.070 ppm. Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS based on the three most recent years of ambient air quality data at the conclusion of the designation process. The Baltimore nonattainment area, the Philadelphia-Wilmington-Atlantic City nonattainment area, and the Washington, DC-MD-VA area were classified as marginal nonattainment for the 2015 8-hour ozone NAAQS on June 4, 2018 (effective August 3, 2018) using 2014–2016 ambient air quality data. 83 FR 25776 (June 4, 2018).

On December 6, 2018, EPA issued the final SIP Requirements Rule, which establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2015 8-hour ozone NAAQS. Areas that were designated as marginal ozone nonattainment areas are required to attain the 2015 8-hour ozone NAAQS no later than August 3, 2021.[1] 83 FR 10376 (March 9, 2018) and 83 FR 62998 (December 6, 2018).

II. Summary of SIP Revision and EPA Analysis

This rulemaking is specific to Maryland's NNSR requirements for the Baltimore nonattainment area, the Philadelphia-Wilmington-Atlantic City nonattainment area, and the Washington, DC-MD-VA nonattainment area. NNSR is a preconstruction review permit program that applies to new major stationary sources or major modifications at existing sources located in a nonattainment area. The specific NNSR requirements for the ozone NAAQS are located in 40 CFR 51.160 through 51.165. The SIP Requirements Rule explained that, for each nonattainment area, a NNSR plan or plan revision was due no later than 36 months after the effective date of area designations for the 2015 8-hour ozone standard (*i.e.,* August 3, 2021).

The minimum SIP requirements for NNSR permitting programs for the 2015 8-hour ozone NAAQS are set forth in 40 CFR 51.165. See 40 CFR 51.1114. The SIP for each ozone nonattainment area must contain NNSR provisions that: Set major source thresholds for oxides of nitrogen (NO_X) and volatile organic compounds (VOCs) pursuant to 40 CFR 51.165(a)(1)(iv)(A)(*1*)(*i*)–(*iv*) and (2); classify physical changes as a major source if the change would constitute a major source by itself pursuant to 40 CFR 51.165(a)(1)(iv)(A)(*3*); consider any significant net emissions increase of NO_X as a significant net emissions increase for ozone pursuant to 40 CFR 51.165(a)(1)(v)(E); consider certain increases of VOC emissions in extreme ozone nonattainment areas as a significant net emissions increase and a major modification for ozone pursuant to 40 CFR 51.165(a)(1)(v)(F);[2] set significant emissions rates for VOC and NO_X as ozone precursors pursuant to 40 CFR 51.165(a)(1)(x)(A)–(C) and (E); contain provisions for emissions reductions credits pursuant to 40 CFR 51.165(a)(3)(ii)(C)(*1*)–(*2*); provide that the requirements applicable to VOC also apply to NO_X pursuant to 40 CFR 51.165(a)(8); and set offset ratios for VOC and NO_X pursuant to 40 CFR 51.165(a)(9) (ii)–(iv). For the 2015 8-hour ozone NAAQS, the SIP for each ozone nonattainment area designated nonattainment for the 2008 8-hour ozone NAAQS and designated nonattainment for the 1997 ozone NAAQS on April 6, 2015, must also contain NNSR provisions that include the anti-backsliding requirements at 40 CFR 51.1105. See 40 CFR 51.165(a)(12).

Maryland's longstanding SIP approved NNSR program, established in Code of Maryland Regulations (COMAR) Air Quality Rule COMAR 26.11.17—Nonattainment Provisions for Major New Sources and Major Modifications, applies to the construction and modification of major stationary sources in nonattainment areas. In its June 3, 2020 SIP revision, Maryland certifies that the version of the Air Quality Rule COMAR 26.11.17 in the SIP is at least as stringent as the Federal NNSR requirements for the Philadelphia-Wilmington-Atlantic City nonattainment area, the Washington, DC nonattainment area, and the Baltimore nonattainment area. EPA last approved revisions to the SIP approved version of Maryland's NNSR rule in 2018 in response to EPA's February 3, 2017 Findings of Failure to Submit for various requirements relating to the 2008 8-hour ozone NAAQS. 83 FR 3982 (January 29, 2018). Maryland has not changed these major stationary source threshold provisions in COMAR 26.11.17.01(17), so they remain in Maryland's federally approved SIP.[3] All of the sources located in the 2015 8-hour ozone nonattainment areas in Maryland are required to meet a major stationary source threshold of 25 tons or

[1] EPA has not yet formally determined whether these areas timely attained, and any such final determination will be made by EPA in a future action.

[2] EPA notes that neither COMAR 26.11.17 nor Maryland's approved SIP have the regulatory provision for any emissions change of VOC in extreme nonattainment areas, specified in 40 CFR 51.165(a)(1)(v)(F), because Maryland has never had an area designated extreme nonattainment for any of the ozone NAAQS. Thus, the Maryland SIP is not required to have this requirement for VOC in extreme nonattainment areas until such time as Maryland has an extreme ozone nonattainment area.

[3] Under the 1997 8-hour ozone NAAQS, the Baltimore Area was classified as serious nonattainment and the Philadelphia-Wilmington-Atlantic City and Washington, DC Areas were classified as moderate nonattainment.

more per year of VOC or NO_X. Because Maryland's major stationary source thresholds were established for the 1997 8-hour ozone NAAQS nonattainment designations, they have been changed, and therefore they are more stringent than required by the 2008 and 2015 8-hour ozone NAQQS.

COMAR 26.11.17 currently includes provisions allowing ozone interprecursor trading. On January 31, 2020, MDE submitted a SIP revision (#20–02) to incorporate the interprecursor trading provisions of COMAR 26.11.17 into the Maryland SIP. On October 27, 2020, EPA published a notice of proposed rulemaking (NPRM) in which EPA proposed to approve Maryland SIP revision #20–02). 85 FR 68029 (October 27, 2020). MDE's SIP Revision #20–05 submission to EPA referenced those interprecursor trading provisions of COMAR 26.11.17 in its certification that Maryland's NNSR program was consistent with Federal requirements. Subsequently, on January 29, 2021, the United States Court of Appeals for the D.C. Circuit concluded that ozone interprecursor trading is not permissible under the CAA and vacated ozone interprecursor trading, *i.e.,* the interprecursor trading provision in the Federal NNSR regulations. *Sierra Club* v. *EPA,* 985 F.3d 1055 (D.C. Cir. 2021). EPA removed the language allowing interprecursor trading for ozone and restored the language in the NNSR regulations to the form it was in after the EPA's 2008 p.m.2.5 implementation rule. 86 FR 37918 (July 19, 2021). After the court decision and EPA's withdrawal of the interprecursor trading provisions, by letter dated October 26, 2021, Maryland withdrew SIP revision #20–02 with the interprecursor trading provisions in its entirety. Additionally, in a separate clarification letter dated October 26, 2021, MDE requested that EPA withdraw from EPA's consideration those portions of SIP revision #20–05 which related to ozone interprecursor trading. Furthermore, MDE committed to removing the interprecursor trading provisions from COMAR and to not implementing them in the interim. Consequently, those provisions are no longer pending action before EPA. EPA is publishing this notice of proposed rulemaking to notify commenters that EPA no longer intends to take final action on SIP revision #20–02 or to consider that SIP revision in this proposal to approve SIP revision #20–05.

III. Proposed Action

EPA's review of this material indicates that the Maryland's submission fulfills the 40 CFR 51.1114 revision requirement, meets the requirements of CAA sections 110 and 172 and the minimum SIP requirements of 40 CFR 51.165. EPA is proposing to approve Maryland's SIP revision addressing the NNSR requirements for the 2015 8-hour ozone NAAQS for the Baltimore, MD, Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE, and Washington, DC-MD-VA nonattainment areas, which was submitted on June 3, 2020. EPA is soliciting public comments on the issues discussed in the proposed approval. These comments will be considered before taking final action. Additionally, because MDE has officially withdrawn its January 31, 2020 SIP revision #20–02 in its entirety, EPA is withdrawing the proposed action for that SIP revision in this action.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Diana Esher,

Acting Regional Administrator, Region III.

[FR Doc. 2022–04719 Filed 3–4–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2021–0133; FRL–8473–02–OAR]

RIN 2060–AV27

National Emission Standards for Hazardous Air Pollutants: Technology Review for Wood Preserving Area Sources; Technical Correction for Surface Coating of Wood Building Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing the results of the technology review conducted in accordance with the Clean Air Act (CAA) for the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Wood Preserving Area Sources. The EPA is proposing no changes to the standards as a result of the technology review. The

EPA is proposing minor editorial and formatting changes to the Wood Preserving Area Sources NESHAP table of applicable general provisions. Unrelated to the review for the Wood Preserving Area Sources NESHAP, the EPA is also proposing technical corrections to the Surface Coating of Wood Building Products NESHAP.

DATES: Comments must be received on or before April 21, 2022. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before April 6, 2022.

Public hearing: If anyone contacts us requesting a public hearing on or before March 14, 2022, we will hold a virtual public hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2021–0133, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2021–0133 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2021–0133.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2021–0133, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand/Courier Delivery:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are open to the public by appointment only to reduce the risk of transmitting COVID–19. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. Hand deliveries and couriers may be received by scheduled appointment only. For further information on the EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Mr. John Evans, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–3633; fax number: (919) 541–4991; and email address: *Evans.John@epa.gov.*

SUPPLEMENTARY INFORMATION:

Participation in virtual public hearing. Please note that because of current Centers for Disease Control and Prevention (CDC) recommendations, as well as state and local orders for social distancing to limit the spread of COVID–19, the EPA cannot hold in-person public meetings at this time.

To request a virtual public hearing, contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov.* If requested, the virtual hearing will be held on March 22, 2022. The hearing will convene at 9:00 a.m. Eastern Time (ET) and will conclude at 3:00 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details at *https://www.epa.gov/stationary-sources-air-pollution/wood-preserving-area-sources-national-emission-standards-hazardous.*

If a public hearing is requested, the EPA will begin pre-registering speakers for the hearing upon publication of this document in the **Federal Register**. To register to speak at the virtual hearing, please use the online registration form available at *https://www.epa.gov/stationary-sources-air-pollution/wood-preserving-area-sources-national-emission-standards-hazardous* or contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov.* The last day to pre-register to speak at the hearing will be March 21, 2022. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers in approximate order at: *https://www.epa.gov/stationary-sources-air-pollution/wood-preserving-area-sources-national-emission-standards-hazardous.*

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 5 minutes to provide oral testimony. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) by emailing it to *Evans.John@epa.gov.* The EPA also recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at *https://www.epa.gov/stationary-sources-air-pollution/wood-preserving-area-sources-national-emission-standards-hazardous.* While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov* to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of a translator or special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by March 14, 2022. The EPA may not be able to arrange accommodations without advanced notice.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2021–0133. All documents in the docket are listed in *https://www.regulations.gov/.* Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. With the exception of such material, publicly available docket materials are available electronically in *Regulations.gov.*

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2021–0133. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://*

www.regulations.gov/, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically to *https://www.regulations.gov/* any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted by as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov/,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center home page at *https://www.epa.gov/dockets.*

Due to public health concerns related to COVID–19, the Docket Center and Reading Room are open to the public by appointment only. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on the EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

The EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID–19.

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/.* Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.,* Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov,* and as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2021–0133. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

Preamble acronyms and abbreviations. Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

BACT best available control technology
CAA Clean Air Act
CBI Confidential Business Information
CCA chromated copper arsenate
CDC Centers for Disease Control and Prevention
CFR Code of Federal Regulations
EJ environmental justice
EPA Environmental Protection Agency
ET eastern time
FR Federal Register
GACT generally available control technology
HAP hazardous air pollutant(s)
km kilometer
LAER lowest achievable emission rate
NESHAP national emission standards for hazardous air pollutants
NSR New Source Review
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
OSHA Occupational Safety and Health Administration
PRA Paperwork Reduction Act
RACT reasonably available control technology
RBLC RACT/BACT/LAER Clearinghouse
RFA Regulatory Flexibility Act
tpy tons per year
UMRA Unfunded Mandates Reform Act

Organization of this document. The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

The source category that is the main subject of this proposal is Wood Preserving Area Sources regulated under 40 CFR part 63, subpart QQQQQQ. The North American Industry Classification System (NAICS) code for the wood preserving industry is 321114. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities would not be affected by this proposed action. Wood Preserving Area Sources was added to the area source category list under the Integrated Urban Air Toxics Strategy in 2002 (see 67 FR 43112, June 26, 2002) and the *Documentation for Developing the Initial Source Category List, Final Report* (see EPA–450/3–91–030, July 1992) defines the Wood Preserving Area Sources category as any area source facility engaged in the treatment of wood products for preservation or other purposes. Wood treatment is accomplished by pressure or thermal impregnation of chemicals into wood to provide long-term resistance to attack by fungi, bacteria, insects, and marine borers.

This action also proposes technical corrections to the Surface Coating of Wood Building Products source category. The technical corrections are described in section III.D.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at *https://www.epa.gov/stationary-sources-air-pollution/wood-preserving-area-sources-national-emission-standards-hazardous.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website.

A redline strikeout version of the rule showing the edits that would be necessary to incorporate the changes proposed in this action is presented in the memorandum titled: *Proposed Redline Strikeout Edits, Subpart QQQQQQ: Wood Preserving Area Sources,* available in the docket for this action (Docket ID No. EPA–HQ–OAR–2021–0133).

II. Background

A. What is the statutory authority for this action?

The statutory authority for this action is provided by sections 112 and 301 of the CAA, as amended (42 U.S.C. 7401 *et seq.*). Section 112(d)(6) requires the EPA to review standards promulgated under CAA section 112(d) and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less often than every 8 years following promulgation of those standards. This is referred to as a ''technology review'' and is required for all standards established under CAA section 112(d) including generally available control technology (GACT) standards that apply to area sources.[1] This proposed action constitutes the CAA 112(d)(6) technology review for the Wood Preserving Area Sources NESHAP.

Several additional CAA sections are relevant to this action as they specifically address regulation of hazardous air pollutant emissions from area sources. Collectively, CAA sections 112(c)(3), (d)(5), and (k)(3) are the basis of the Area Source Program under the Urban Air Toxics Strategy, which provides the framework for regulation of area sources under CAA section 112.

Section 112(k)(3)(B) of the CAA requires the EPA to identify at least 30 HAP that pose the greatest potential health threat in urban areas with a primary goal of achieving a 75 percent reduction in cancer incidence attributable to HAP emitted from stationary sources. As discussed in the Integrated Urban Air Toxics Strategy (64 FR 38706, 38715, July 19, 1999), the EPA identified 30 HAP emitted from area sources that pose the greatest potential health threat in urban areas, and these HAP are commonly referred to as the ''30 urban HAP.''

Section 112(c)(3) of the CAA, in turn, requires the EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 urban HAP are subject to regulation. The EPA implemented these requirements through the Integrated Urban Air Toxics Strategy by identifying and setting standards for categories of area sources including the Wood Preserving Area Sources category that is addressed in this action.

Section 112(d)(5) of the CAA provides that for area source categories, in lieu of setting maximum achievable control technology (MACT) standards (which are generally required for major source categories), the EPA may elect to promulgate standards or requirements for area sources ''which provide for the use of generally available control technology or management practices [GACT] by such sources to reduce emissions of hazardous air pollutants.'' In developing such standards, the EPA evaluates the control technologies and management practices that reduce HAP emissions that are generally available for each area source category. Consistent with the legislative history, we can consider costs and economic impacts in determining what constitutes GACT.

GACT standards were promulgated for the Wood Preserving Area Sources category in 2007 (72 FR 38864, July 16, 2007). As noted above, this proposed action presents the required CAA 112(d)(6) technology review for that source category.

B. What is this source category and how does the current NESHAP regulate its HAP emissions?

The Wood Preserving Area Sources category includes facilities that use either a pressure or thermal treatment process to impregnate chemicals into wood to provide long-term resistance to attack by fungi, bacteria, insects, or

[1] For categories of area sources subject to GACT standards, CAA sections 112(d)(5) and (f)(5) provide that the CAA section 112(f)(2) residual risk review is not required. However, the CAA section 112(d)(6) technology review is required for such categories.

marine borers. Some of the products produced by the wood preserving industry include posts, cross ties, switch ties, utility poles, round timber pilings, lumber for aquatic applications, and fire-retardant lumber products.

More than 95 percent of all treated wood is preserved through pressurized processes. Almost all wood preservation employing a pressure process takes place in a closed treating cylinder or retort. A retort is an airtight pressure vessel, typically a long horizontal cylinder, used for the pressure impregnation of wood products with a liquid wood preservative. In a thermal treatment process, the wood is exposed to the preservative in an open vessel. The wood is immersed alternately in separate tanks containing heated and cold preservative, either oil- or waterborne. Alternatively, the wood may be immersed in one tank that is first heated then allowed to cool. During the hot bath, air in the wood expands, which forces some air out. Heating improves penetration of preservatives. In the cold bath, air in the wood contracts, creating a partial vacuum, and atmospheric pressure forces more preservative into the wood.

There are three general classes of wood preservatives: (a) Oils, such as creosote and petroleum solutions of pentachlorophenol (also called ''penta'' or ''PCP'') and copper naphthenate, (b) waterborne salts that are applied as water solutions, such as chromated copper arsenate (CCA), and (c) light organic solvents, which serve as the carriers for synthetic insecticides. Over the past few decades, the wood preserving industry has undergone several changes related to the types of preservatives used for certain applications and the associated emissions. Of the wood preservatives being used today, some contain HAP, and some do not contain HAP.

The NESHAP is applicable to any wood preserving operation located at an area source. The EPA has estimated that there are 322 wood preserving area sources. However, only those facilities that are using a wood preservative containing one or more of the target HAP, arsenic, chromium, dioxins, or methylene chloride, are subject to the GACT standards. Three wood preservatives, pentachlorophenol, CCA, and ammoniacal copper zinc arsenate (ACZA) contain at least one of the target HAP. Pentachlorophenol (a HAP) contains trace concentrations of dioxins, which are a target HAP. CCA contains the target HAP arsenic and chromium. ACZA contains the target HAP arsenic. The EPA is not aware of any facilities currently using a wood preservative containing the target HAP methylene chloride. The EPA has estimated that 177 wood preserving area sources use a wood preservative containing a target HAP and are subject to the GACT standards. The remaining area sources use wood preservatives that do not contain HAP or use creosote, which contains the HAP naphthalene.

The GACT standards require any facility using a pressure treatment process to use a retort or similarly enclosed vessel for the preservative treatment. Facilities using a thermal treatment process are required to use process treatment tanks equipped with air scavenging systems to capture and control air emissions. In addition, all facilities must prepare and operate according to a management practice plan to minimize air emissions, including emissions from process tanks and equipment (*e.g.,* retorts, other enclosed vessels, thermal treatment tanks), storage, handling, and transfer operations. These standards are required to be documented in a management practices plan. See 40 CFR 63.11430(c).

C. What data collection activities were conducted to support this action?

For this technology review, the EPA used information from several available databases to compile a list of wood preserving area sources. These databases included the Enforcement and Compliance History Online (ECHO), the Toxic Release Inventory (TRI), the National Emissions Inventory (NEI), and Integrated Compliance Information System for Air (ICIS–AIR). Additional information about these data collection activities for the technology review is contained in the memoranda titled *Technology Review for the Wood Preserving Area Sources National Emission Standards for Hazardous Air Pollutants,* available in the docket for this action.

Also, for the technology review, the EPA searched for reasonably available control technology (RACT), best available control technology (BACT), and lowest achievable emission rate (LAER) determinations in the EPA's RACT/BACT/LAER Clearinghouse (RBLC). This database contains case-specific information on air pollution technologies that have been required to reduce the emissions of air pollutants from stationary sources. Under the EPA's New Source Review (NSR) program, an NSR permit must be obtained if a facility is planning new construction that increases the air emissions of any regulated NSR pollutant at or above 100 or 250 tons per year (tpy) (or a lower threshold depending upon nonattainment severity) or a modification that results in a significant emissions increase and a significant net emissions increase of any regulated NSR pollutant. ''Significant'' emissions increase is defined in the NSR regulations and is pollutant-specific, ranging from less than 1 pound (lb) to 100 tpy of the applicable regulated NSR pollutant. The RBLC database promotes the sharing of information among permitting agencies and aids in case-by-case determinations for NSR permits. The EPA examined information contained in the RBLC to determine if there were any technologies or practices that are currently used for reducing emissions of arsenic, chromium, or dioxins from wood preserving. The EPA also searched the EPA's Applicability Determination Index (ADI) website to determine if any alternative emission standards or management practices had been requested or approved.

The EPA also searched available online state databases for state issued air quality construction and operating permits for the purposes of identifying wood preserving area sources and to determine if states required emission technologies or practices beyond those required under the current NESHAP for the purposes of reducing emissions of the arsenic, chromium, or dioxins from wood preserving area sources.

D. What other relevant background information and data are available?

Additional details and background information regarding this review, including the information sources described in section II.C above, are contained in the *Technology Review for the Wood Preserving Area Sources National Emission Standards for Hazardous Air Pollutants,* which can be found in the docket for this action.

E. How does the EPA perform the technology review?

This technology review primarily focused on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the GACT standards were promulgated. Where the EPA identifies such developments, their technical feasibility, estimated costs, energy implications, and non-air environmental impacts are analyzed. The EPA also considers the emission reductions associated with applying each development. The analysis informs the EPA's decision of whether it is ''necessary'' to revise the emissions standards. In addition, the EPA considers the appropriateness of applying controls to new sources versus retrofitting existing sources. For this

exercise, the EPA considers any of the following to be a ''development'':

- Any add-on control technology or other equipment that was not identified and considered during development of the original GACT standards;
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original GACT standards) that could result in additional emissions reduction;
- Any work practice or operational procedure that was not identified or considered during development of the original GACT standards;
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original GACT standards; and
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original GACT standards).

In addition to reviewing the practices, processes, and control technologies that were considered at the time the NESHAP was originally developed, the EPA reviews a variety of data sources in the investigation of potential practices, processes, or controls to consider. See sections II.C and II.D of this preamble for information on the specific data sources that were reviewed as part of the technology review.

III. Proposed Rule Summary and Rationale

A. What are the results and proposed decisions based on our technology review, and what is the rationale for those decisions?

As described in section II of this preamble, the technology review focused on identifying developments in practices, processes, and control technologies for the Wood Preserving Area Sources category. The EPA reviewed various sources of information regarding emission sources that are currently regulated by the Wood Preserving Area Sources GACT. Based on this review the EPA did not identify any developments in practices, processes, and control technologies for wood preserving area source facilities that would further reduce emissions of the four urban HAP for which the Wood Preserving Area Sources category was listed. As a result of this review, the EPA is proposing that revisions to the existing GACT standards are not necessary.

B. What other actions are we proposing, and what is the rationale for those actions?

In this proposal, the EPA is proposing minor editorial and formatting changes to Table 1 to Subpart QQQQQQ of Part 63—Applicability of General Provisions to Subpart QQQQQQ of Part 63. These proposed changes are based on updated text and references in the General Provisions and will be consistent with other NESHAP. The updates include listing individual provisions on separate lines as opposed to grouping provisions and including explanations, where appropriate, for the applicability of the general provision to 40 CFR part 63, subpart QQQQQQ (*e.g.,* the general provisions at 40 CFR 60.6(h)(6) through (9) are not applicable because the subpart does not contain opacity limits). The proposed redline-strikeout regulatory edits that would be necessary to incorporate the minor editorial and formatting changes proposed in this action are presented in an attachment to the memorandum titled: *Proposed Redline Strikeout Edits, Subpart QQQQQQ: Wood Preserving Area Sources,* available in the docket for this action.

C. What compliance dates are we proposing, and what is the rationale for the proposed compliance dates?

There are no proposed changes to the existing compliance dates because we are not proposing any revisions to existing requirements.

D. What are the proposed corrections to subpart QQQQ: Surface Coating of Wood Building Products?

In this proposal, and unrelated to the technology review for the Wood Preserving Area Sources NESHAP, the EPA is proposing technical corrections to a different NESHAP: The NESHAP for Surface Coating of Wood Building Products. The proposed changes are necessary because the NESHAP for Surface Coating of Wood Building Products contains a reference to an Occupational Safety and Health Administration (OSHA) provision that has changed. The EPA proposes to amend 40 CFR 63.4741(a)(1)(i) and (a)(4), which describe how to determine the mass fraction of organic HAP in each material used, to remove references to OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4). The reference to OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) is intended to specify which compounds must be included in calculating total organic HAP content of a coating material if they are present at 0.1 percent or greater by mass. The EPA proposes to remove this reference because 29 CFR 1910.1200(d)(4) has been amended and no longer readily defines which compounds are carcinogens. The EPA is proposing to replace these references to OSHA-defined carcinogens and 29 CFR 1910.1200(d)(4) with a list (in proposed new Table 7 to 40 CFR part 63, subpart QQQQ) of those organic HAP that must be included in calculating the total organic HAP content of a coating material if they are present at 0.1 percent or greater by mass. The proposed redline strikeout regulatory edits that would be necessary to incorporate the changes proposed in this action related to the technical correction are presented in the memorandum titled: *Proposed Redline Strikeout Edits, Subpart QQQQ:* Surface Coating of Wood Products, available in the docket for this action (Docket ID No. EPA–HQ–OAR–2021–0133).

IV. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

Currently, the EPA estimates that there are 322 wood preserving area source facilities in the United States that are subject to 40 CFR part 63, subpart QQQQQQ. Approximately 177 of those facilities use or are permitted to use a wood preservative containing arsenic, chromium, dioxins, or methylene chloride and therefore must comply with the management practice requirements in 40 CFR part 63, subpart QQQQQQ.

B. What are the air quality impacts?

Emissions of arsenic, chromium, dioxins, and methylene chloride are not expected to change in any significant way due to this action and therefore no change in air quality impacts is expected.

C. What are the cost impacts?

The one-time cost associated with reviewing the proposed rule is estimated to be $270 per affected facility in 2019 dollars.

D. What are the economic impacts?

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs needed to comply with a final rule and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a final rule. The total cost associated with this

final rule across all facilities is estimated to be approximately $87,000. The estimated cost for each facility is $270, which represents a one-time cost associated with reviewing the revised rule. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

E. What are the benefits?

If finalized as proposed, the EPA does not anticipate any significant changes in arsenic, chromium, dioxin, or methylene chloride emissions as a result of the proposed action.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 directs the EPA to identify the populations of concern who are most likely to experience unequal burdens from environmental harms; specifically, minority populations, low-income populations, and indigenous peoples (59 FR 7629, February 16, 1994). Additionally, Executive Order 13985 was signed to advance racial equity and support underserved communities through Federal government actions (86 FR 7009, January 20, 2021). The EPA defines environmental justice (EJ) as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. The EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies'' (*https://www.epa.gov/environmentaljustice*). In recognizing that minority and low-income populations often bear an unequal burden of environmental harms and risks, the EPA continues to consider ways of protecting them from adverse public health and environmental effects of air pollution.

To examine the potential for any EJ issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. The EPA then compared the data from this analysis to the national average for each of the demographic groups.

The results of the demographic analysis (Table 1) indicate that, for populations within 5 km of the 322 facilities in the source category, the percent minority population (being the total population minus the white population) is larger than the national average (48 percent versus 40 percent). Within minorities, the percent of the population that is African American is significantly higher than the national average (21 percent versus 12 percent). The percent of the population that is Other and Multiracial (6 percent) and Hispanic/Latino (21 percent) is slightly higher than the national averages (8 percent and 19 percent, respectively). The percent of the population that is Native American is similar to the national average (0.5 percent versus 0.7 percent). The percent of people living below the poverty level is higher than the national average (18 percent versus 13 percent). The percent of people over 25 without a high school diploma, and those living in linguistic isolation is similar to the national average.

The results of the analysis (Table 1) indicate that, for populations within 50 km of the 322 facilities in the source category, the percent minority population (38 percent) is smaller than the national average (40 percent). Within minorities, the percent of the population that is African American is slightly higher than the national average (14 percent versus 12 percent). Within 50 km, the percent of the population for all other minorities is similar to or lower than the national average. The percent of people living below the poverty level, over 25 without a high school diploma, and living in linguistic isolation is similar to the national average.

A summary of the proximity demographic assessment performed for National Emission Standards for Hazardous Air Pollutants: Technology Review for Wood Preserving Area Sources facilities is included as Table 1. The methodology and the results of the demographic analysis are presented in a technical report, *Analysis of Demographic Factors for Populations Living Near National Emission Standards for Hazardous Air Pollutants: Technology Review for Wood Preserving Area Sources,* available in this docket for this action (Docket ID No. EPA–HQ–OAR–2021–0133).

TABLE 1—PROXIMITY DEMOGRAPHIC ASSESSMENT RESULTS FOR NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS: TECHNOLOGY REVIEW FOR WOOD PRESERVING AREA SOURCES

Demographic group	Nationwide	Population within 50 km of 322 facilities	Population within 5 km of 322 facilities
Total Population	328,016,242	129,342,574	5,382,118
	White and Minority by Percent		
White	60	62	52
Minority	40	38	48
	Minority by Percent		
African American	12	14	21
Native American	0.70	0.4	0.5
Hispanic or Latino (includes white and nonwhite)	19	17	21
Other and Multiracial	8	8	6
	Income by Percent		
Below Poverty Level	13	13	18
Above Poverty Level	87	87	82

TABLE 1—PROXIMITY DEMOGRAPHIC ASSESSMENT RESULTS FOR NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS: TECHNOLOGY REVIEW FOR WOOD PRESERVING AREA SOURCES—Continued

Demographic group	Nationwide	Population within 50 km of 322 facilities	Population within 5 km of 322 facilities
	Education by Percent		
Over 25 and without a High School Diploma	12	12	15
Over 25 and with a High School Diploma	88	88	85
	Linguistically Isolated by Percent		
Linguistically Isolated	5	5	6

Notes:
• The nationwide population count and all demographic percentages are based on the Census' 2015–2019 American Community Survey five-year block group averages and include Puerto Rico. Demographic percentages based on different averages may differ. The total population counts within 5 km and 50 km of all facilities are based on the 2010 Decennial Census block populations.
• Minority population is the total population minus the white population.
• To avoid double counting, the ''Hispanic or Latino'' category is treated as a distinct demographic category for these analyses. A person is identified as one of five racial/ethnic categories above: White, African American, Native American, Other and Multiracial, or Hispanic/Latino. A person who identifies as Hispanic or Latino is counted as Hispanic/Latino for this analysis, regardless of what race this person may have also identified as in the Census.

Based on our technology review, we did not identify any add-on control technologies, process equipment, work practices or procedures that were not previously considered during development of the 2007 Wood Preserving Area Sources NESHAP, and we did not identify developments in practices, processes, or control technologies that would result in additional emission reductions.

V. Request for Comments

The EPA solicits comments on this proposed action. In addition to general comments on this proposed action, the EPA is also interested in additional data that may improve the analyses. The EPA is specifically interested in receiving any information regarding developments in practices, processes, and control technologies that reduce HAP emissions from the sources within the wood preserving area sources category.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the OMB for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0598. This proposal does not include any new reporting or record keeping requirements and therefore does not impose an information collection burden.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small businesses. The Agency has determined that all small entities affected by this action, estimated to be 175 entities, may experience an impact of less than 0.7 percent of revenues, with approximately 95 percent of these entities estimated to experience a potential impact of less than 0.1 percent of revenues. Details of the analysis are presented in the spreadsheet titled *RFA_Analysis_Wood_2022_Proposal.xlsx,* which is found in the docket.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. While this action creates an enforceable duty on the private sector, the cost does not exceed $100 million or more.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action. However, consistent with the EPA policy on coordination and consultation with Indian tribes, the EPA will offer government-to-government consultation with tribes as requested.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve any technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and

adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The methodology and the results of the demographic analysis are discussed in section IV.F above.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and record keeping requirements.

Michael S. Regan,

Administrator.

[FR Doc. 2022–04571 Filed 3–4–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 22–78; RM–11918; DA 22–189; FR ID 74154]

Television Broadcasting Services Wichita, Kansas

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Gray Television Licensee, LLC (Petitioner), the licensee of KSCW–DT, channel 12, Wichita, Kansas. The Petitioner requests the substitution of channel 28 for channel 12 at in the Table of Allotments.

DATES: Comments must be filed on or before April 6, 2022 and reply comments on or before April 21, 2022.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the Petitioner as follows: Joan Stewart, Esq., Wiley Rein LLP, 2050 M Street NW, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647; or Joyce Bernstein, Media Bureau, at *Joyce.Bernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: In support, the Petitioner states that the proposed channel substitution serves the public interest because it will resolve significant over-the-air reception problems in KSCW–DT's existing service area. The Petitioner further states that the Commission has recognized the deleterious effects manmade noise has on the reception of digital VHF signals, and that the propagation characteristics of these channels allow undesired signals and noise to be receivable at relatively farther distances compared to UHF channels and nearby electrical devices can cause interference. According to the Petitioner, although the proposed channel 28 noise limited contour will fall slightly short of the licensed channel 12 noise limited contour, a terrain-limited analysis using the Commission's *TVStudy* software demonstrates that there is no predicted loss in population served.

This is a synopsis of the Commission's *Notice of Proposed Rulemaking,* MB Docket No. 22–78; RM–11918; DA 22–189, adopted February 22, 2022, and released February 23, 2022. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

Members of the public should note that all *ex parte* contacts are prohibited from the time a Notice of Proposed Rulemaking is issued to the time the matter is no longer subject to Commission consideration or court review, *see* 47 CFR 1.1208. There are, however, exceptions to this prohibition, which can be found in Section 1.1204(a) of the Commission's rules, 47 CFR 1.1204(a).

See Sections 1.415 and 1.420 of the Commission's rules for information regarding the proper filing procedures for comments, 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—Radio Broadcast Service

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

§ 73.622 [Amended]

■ 2. In § 73.622 in paragraph (j), amend the Table of Allotments under Kansas by revising the entry for Wichita to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(j) * * *

Community	Channel No.
* * * * *	
KANSAS	
* * * * *	
Wichita	10, 15, 26, 28
* * * * *	

[FR Doc. 2022–04407 Filed 3–4–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2022–00199]

Federal Motor Vehicle Safety Standards; Denial of Petitions for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Denial of petitions for rulemaking.

SUMMARY: This document denies the September 27, 2021 petitions for rulemaking submitted by the Small Business in Transportation Coalition (SBTC) (''petitioner''). The petitioner requested that the agency initiate rulemaking to establish a new Federal motor vehicle safety standard (FMVSS) on the installation of electronic logging devices (ELDs), and to amend existing FMVSSs for heavy vehicle braking and accelerator control systems (*i.e.,* FMVSS Nos. 105, 121, and 124). NHTSA is

denying the petitions based on a lack of information necessary under the National Traffic and Motor Vehicle Safety Act and the allocation of agency resources.

FOR FURTHER INFORMATION CONTACT: Gunyoung Lee, Safety Standards Engineer, Office of Rulemaking, National Highway Traffic Safety Administration, 1200 New Jersey Ave. SE, Washington, DC 20590, Telephone: 202–366–6005.

SUPPLEMENTARY INFORMATION:

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I. Background

The National Traffic and Motor Vehicle Safety Act (''Safety Act'') (49 U.S.C. 30101 *et seq.*) authorizes NHTSA to issue safety standards for new motor vehicles and new items of motor vehicle equipment. Each FMVSS standard must be practicable, meet the need for motor vehicle safety, and be stated in objective terms. NHTSA does not endorse any vehicles or items of equipment. Further, NHTSA does not approve or certify vehicles or equipment. Instead, the Safety Act establishes a ''self-certification'' process under which each manufacturer is responsible for certifying that its products meet all applicable safety standards.

Petitions for rulemaking are governed by 49 CFR 552. Pursuant to Part 552, the agency conducts a technical review of the petition, which may consist of an analysis of the material submitted, together with information already in possession of the agency. In deciding whether to grant or deny a petition, the agency considers this technical review as well as appropriate factors, which include, among others, allocation of agency resources and agency priorities.[1]

II. Petitions for Rulemaking

SBTC submitted a letter, dated September 27, 2021, that includes two rulemaking petitions pursuant to 49 CFR 552 and a defect investigation petition pursuant to 49 CFR 554. This notice focuses on the two rulemaking petitions filed by the petitioner. The other petition for opening a defect investigation will be addressed in a separate notice.

The two petitions for rulemaking focus on alleged cybersecurity vulnerabilities in commercial motor vehicles and commercial motor vehicle equipment. The first petition for rulemaking requests that NHTSA establish a new FMVSS to regulate the installation of electronic logging devices (ELDs) in commercial motor vehicles. Because NHTSA regulates motor vehicles and items of motor vehicle equipment, not the ''installation'' of any such devices, NHTSA is interpreting SBTC's request as asking the agency to issue a performance standard for ELDs. The second petition for rulemaking requests that NHTSA amend existing FMVSSs for braking and accelerator control systems (*i.e.,* FMVSS Nos. 105,[2] 121,[3] and 124 [4]). The petitioner contended that these safety standards should be amended because the factory-installed braking and acceleration systems are out of date, asserting that the systems are vulnerable to telematics hacking. As supporting references, SBTC included various information, such as research studies, media publications, and government publications.

III. NHTSA's Analysis and Decision

After a thorough review of the petitions and accompanying materials provided by the petitioner, NHTSA has decided to deny the SBTC's rulemaking petitions based on a lack of sufficient data necessary to proceed under the Motor Vehicle Safety Act, 49 U.S.C. 30111(a) and (b) the allocation of agency resources. The following sections detail the primary reasons for the agency's decision.

A. SBTC's Petition To Establish a New FMVSS for the Installation of ELDs and NHTSA's Rationale for Denying This Petition

1. SBTC has not provided sufficient information to establish a safety need associated with ELD installation.

NHTSA reviewed all sources provided by the petitioner to determine whether a safety need exists that could be resolved by promulgating a FMVSS. In its first rulemaking petition, SBTC contended that the hacking vulnerability and weak encryption of ELDs may lead to safety-critical attacks (*i.e.,* hazards) in commercial vehicles. The references cited by the petitioner do not provide support for such assertion or sufficient information, such as the nature, cause, size, and potential severity of the alleged hazard. As an example, SBTC argued that an adversary can hack into ''a vulnerable ELD system'' and take control of a commercial vehicle based on an academic research paper (''Burakova'').[5] Contrary to the out-of-context excerpt petitioner included in its petition, this paper discusses the possibilities of using *physical* access to a SAE J1939 bus.[6] The paper makes no specific assertions concerning wireless or remote attacks, only that ''Further research is needed.'' Also, the paper does not discuss vulnerabilities in any specific devices that span wireless and J1939 networks, ELD or otherwise. As such, it is unclear how this paper supports petitioner's assertion that a safety standard is necessary for ELDs. Additionally, petitioner also provided a 2021 Freightwaves article that describes efforts by trucking companies to alter ELD logs with physical access. There is no mention of accessing vehicle J1939 busses in that article. There is no mention of accessing ELD devices remotely either. Aside from the potential for falsified logs, the regulation of which is not within the jurisdiction of NHTSA, the article does not provide evidence of the petitioner's assertion that ELDs represent a threat to vehicle control or vehicle safety at all. Furthermore, several of the articles provided had nothing to do with heavy duty vehicles or ELDs. Therefore, NHTSA does not believe the information provided by petitioner identifies a safety need that issuing a Federal motor vehicle safety standard for ELDs might resolve.[7]

2. SBTC has not provided any information on the practical means or solutions by which NHTSA might resolve petitioner concerns.

As stated in previous NHTSA guidance,[8] the petition should describe technologies and designs that are or will be available to comply with the performance requirements and

[1] 49 CFR 552.8.

[2] FMVSS No. 105, Hydraulic and Electric Brake Systems, establishes requirements for hydraulic and electric service brake systems, and associated parking brake systems to ensure safe braking performance. This safety standard applies to multipurpose passenger vehicles, trucks, and buses with a gross vehicle weight rating (GVWR) greater than 7,716 pounds.

[3] FMVSS No. 121, Air Brake Systems, establishes performance and equipment requirements for braking systems on vehicles, such as trucks and buses with a GVWR less than 29,000 pounds, and trailers equipped with air brake systems to ensure safe braking performance under normal and emergency conditions.

[4] FMVSS No. 124, Accelerator Control Systems, establishes requirements for the return of a vehicle's throttle to idle position when the driver removes the actuating force or in the event of severance/disconnection of the accelerator control system. This standard applies to passenger cars, multi-purpose passenger vehicles, trucks, and buses.

[5] Y. Burakova et al., *Truck Hacking: An Experimental Analysis of the SAE J1939 Standard,* (2016).

[6] The excerpt included by the petitioner in support of its petitions implied that petitioner was concerned with wireless or ''remote'' attacks.

[7] *See* 49 U.S.C. 30111(a).

[8] *See https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/understanding_nhtsas_current_regulatory_tools-tag.pdf.*

demonstrate the level of effectiveness of those technologies and designs in addressing the claimed concerns regarding the installation of ELDs. However, the petitioner provided only high-level, anecdotal information about their broad, general concerns. Furthermore, petitioner failed to provide any solutions to those concerns.

3. SBTC has not provided the substance that a standard would be comprised of.

As stated in previous NHTSA guidance,[9] the petition should describe the requested standard (*i.e.,* the performance requirements, test conditions, and test procedures), the supporting research and reasons why those performance requirements, test conditions, and test procedures are appropriate and provide proposed regulatory text. However, SBTC failed to provide any substantive information regarding what a new FMVSS would be comprised of that would resolve the alleged concerns regarding the ELD installation.

B. SBTC's Petition To Amend the Existing FMVSS Nos. 105, 121, and 124, and NHTSA's Rationale for Denying This Petition

Like the first petition for a new FMVSS, this second petition should demonstrate a safety need that could be resolved by amending the existing FMVSSs. However, SBTC merely contended that the alleged vulnerabilities of telematics systems could impact braking and acceleration control systems and did not provide sufficient information or evidence of such attacks occurring in heavy vehicles. The resources provided by the petitioner cover a wide range of potential telematics vulnerabilities in light passenger vehicles, many of which are directly impacted by specific vehicle architectures (*i.e.,* make and model specific, in many instances). Petitioner has failed to provide evidence that indicates there is a general safety need related to telematics units in heavy vehicles that warrants modification of existing FMVSS. Without an identified safety need, it is unclear how petitioner's request would meet the need for safety.[10]

Similarly, the petitioner failed to provide practical means or solutions by which NHTSA could resolve its concern. SBTC provided only high-level, anecdotal information about its broad, general concerns regarding the interaction between telematics and heavy vehicle braking and acceleration control systems regulated by the existing FMVSSs. SBTC also failed to provide any substantive information regarding the amendments of the existing FMVSSs to resolve its concerns.

Therefore, NHTSA is denying both of the SBTC's rulemaking petitions because they lacked sufficient information as discussed above. Furthermore, the agency is discretionarily allocating and managing its vehicle safety resources to those rulemakings that are mandated by Congress and others that have a demonstrated safety need with solutions available to resolve those needs.

Authority: 49 U.S.C. 30113; delegation of authority at 49 CFR 1.95.

Steven S. Cliff,

Deputy Administrator.

[FR Doc. 2022–04729 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–59–P

[9] *Id.*

[10] *See* 49 U.S.C. 30111(a).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220223–0056]

RIN 0648–BK99

Atlantic Highly Migratory Species; General Category Restricted-Fishing Days

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing to set Atlantic bluefin tuna (BFT) General category restricted-fishing days (RFDs) for the 2022 fishing year. This proposed rule would set RFDs for specific days during the months of July through November 2022. On an RFD, Atlantic Tunas General category permitted vessels may not fish for (including catch-and-release or tag-and-release fishing), possess, retain, land, or sell BFT. On an RFD, Highly Migratory Species (HMS) Charter/Headboat permitted vessels with a commercial sale endorsement also are subject to these restrictions to preclude fishing commercially for BFT under the General category restrictions and retention limits, but such vessels may still fish for, possess, retain, or land BFT when fishing recreationally under applicable HMS Angling category rules.

DATES: Written comments must be received by April 6, 2022. NMFS will hold a public hearing via conference call and webinar for this proposed rule on March 24, 2022, from 1 p.m. to 2:30 p.m. For webinar registration information, see the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2022–0025, by electronic submission. Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov and enter* ''NOAA–NMFS–2022–0025'' in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Comments sent by any other method, to any other address or individual, or received after the close of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

NMFS will hold a public hearing via conference call and webinar on this proposed rule. For specific location, date and time, see the **SUPPLEMENTARY INFORMATION** section of this document.

Copies of this proposed rule and supporting documents are available from the HMS Management Division website at *https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species* or by contacting Larry Redd at *larry.redd@noaa.gov* or 301–427–8503.

FOR FURTHER INFORMATION CONTACT: Larry Redd, Jr., *larry.redd@noaa.gov,* 301–427–8503, or Carrie Soltanoff, *carrie.soltanoff@noaa.gov,* 301–427–8503.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries, including BFT fisheries, are managed under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (2006 Consolidated HMS FMP) and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27 divides the U.S. BFT quota,

recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States, among the various domestic fishing categories per the allocations established in the 2006 Consolidated HMS FMP and its amendments. Section 635.23 specifies the retention limit provisions for Atlantic Tunas General category permitted vessels and HMS Charter/Headboat permitted vessels, including regarding RFDs.

RFDs are used as an effort control to ensure that BFT quotas and subquotas are not exceeded. In 2018, NMFS implemented a final rule that established the overall U.S. BFT quota and subquotas consistent with ICCAT Recommendation 17–06 (83 FR 51391, October 11, 2018) and split that BFT quota into subquotas among fishing categories, including for the Angling category (recreational) and General category (commercial). In 2020, following a stock assessment update, ICCAT adopted Recommendation 20–06, which maintained the total allowable catch of 2,350 metric tons (mt) and the associated U.S. quota. As such, as described in § 635.27(a), the current baseline U.S. quota remains 1,247.86 mt (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). The baseline quota for the General category is 555.7 mt. Each of the General category time periods (January through March, June through August, September, October through November, and December) is allocated a portion of the annual General category quota.

In November 2021, following the results of the 2021 western BFT stock assessment, ICCAT adopted Recommendation 21–07, which increased the total allowable catch to 2,746 mt and the associated U.S. quota by 68.28 mt to 1,316.14 mt. NMFS recently published a proposed rule that would implement Recommendation 21–07. If finalized as proposed after considering public comment, the final rule would increase the baseline annual U.S. quota and for BFT to the ICCAT-recommended U.S. BFT quota and subquotas would increase accordingly.

Background

NMFS first established the regulatory authority to set ''no fishing'' days in a 1995 rule (60 FR 38505, July 27, 1995) as an available effort control that could be used to extend the General category time period subquotas while providing additional inseason management flexibility with regard to quota use and season length. An RFD is a day, established ahead of time through a schedule published in the **Federal Register**, on which NMFS sets the BFT retention limit at zero for certain categories of permit holders. Specifically, on an RFD, vessels permitted in the Atlantic Tunas General category are prohibited from fishing for (including catch-and-release and tag-and-release fishing), possessing, retaining, landing, or selling BFT (§ 635.23(a)(2)). RFDs also apply to HMS Charter/Headboat permitted vessels to preclude fishing commercially under General category restrictions and retention limits on those days but do not preclude such vessels from recreational fishing activity under applicable Angling category regulations, including catch-and-release and tag-and-release fishing (§ 635.23(c)(3)).

NMFS may waive previously scheduled RFDs under certain circumstances. Consistent with § 635.23(a)(4), NMFS may waive an RFD by adjusting the daily BFT retention limit from zero up to five on specified RFDs, after considering the inseason adjustment determination criteria at § 635.27(a)(8). Considerations include, among other things, review of dealer reports, daily landing trends, and the availability of BFT on fishing grounds. NMFS would announce any such waiver by filing a retention limit adjustment with the Office of the Federal Register for publication. Such adjustments would be effective no less than 3 calendar days after the date of filing for public inspection with the Office of the Federal Register. NMFS also may waive previously designated RFDs effective upon closure of the General category fishery so that persons aboard vessels permitted in the General category may conduct catch-and-release or tag-and-release fishing for BFT under § 635.26(a). NMFS would not modify the previously scheduled RFDs during the fishing year in other ways (such as changing an RFD from one date to another, or adding RFDs).

Due to increased BFT catch rates in the General category in 2019 and 2020, and numerous requests from Atlantic tuna dealers, General category participants, and members of the Atlantic HMS Advisory Panel, NMFS proposed to resume the use of RFDs for 2021 for the first time since 2007 (86 FR 25992, May 12, 2021). Although NMFS proposed a schedule of all Tuesdays, Fridays, and Saturdays from July 20 through November 30, 2021, due to timing issues, the final rule established RFDs on all Tuesdays, Fridays, and Saturdays from September 3 through November 30, 2021 (86 FR 43421, August 9, 2021). NMFS closed the General category September subquota period on September 23, 2021 (86 FR 53010, September 24, 2021). For the October through November subquota period, the General category remained open until the end of the subquota period (November 30, 2021). Because the use of RFDs in 2021 succeeded in extending fishing opportunities through a greater portion of the relevant subquota periods and the fishing season overall, consistent with management objectives for the fishery, NMFS is proposing an RFD schedule for the 2022 fishing year.

Proposed RFD Schedule for the 2022 Fishing Year

For 2022, NMFS proposes a schedule of RFDs as follows: All Tuesdays, Fridays, and Saturdays from July 1, 2022, through November 30, 2022, while the fishery is open. On these designated RFDs, persons aboard vessels permitted in the General category would be prohibited from fishing for (including catch-and-release and tag-and-release fishing), possessing, retaining, landing, or selling BFT. Persons aboard HMS Charter/Headboat permitted vessels with a commercial sale endorsement also would be prohibited from fishing commercially for BFT. Persons aboard all HMS Charter/Headboat permitted vessels (including those with a commercial sale endorsement) could fish recreationally for BFT under the applicable Angling category restrictions and retention limits.

NMFS is proposing the same weekly schedule as the 2021 RFD schedule (*i.e.,* every Tuesday, Friday, and Saturday). However, while the 2021 RFDs did not start until September 2021, the 2022 RFDs proposed schedule would begin at the start of July and extend through the end of November. This proposed schedule and extension is based on general feedback provided by Atlantic tuna dealers, General category participants and members of the Atlantic HMS Advisory Panel in 2021, a review of average daily catch rate data for recent years, a review of past years' RFD schedules (including the most recent 2021 RFD schedule), and a review of past closure dates prior to RFDs being set in 2021. Considering that information, NMFS believes that a schedule of Tuesday, Friday, and Saturday RFDs from July 1 through November 30 should continue to increase the likelihood of pacing General category landings to extend fishing opportunities through a greater portion of the subquota periods (similar to the 2021 RFD schedule). It would also allow for two-consecutive-day periods

twice each week (Sunday–Monday; Wednesday–Thursday) for BFT product to move through the market and allow for some commercial fishing activity each weekend (Sunday).

In proposing the same schedule as last year, NMFS did consider the comments and feedback received last year that suggested a different approach. During the public comment period for the 2021 RFD rulemaking, NMFS received comments regarding RFDs potentially negatively impacting HMS tournaments given the limits on weekend fishing. Several of these comments requested that a schedule of RFDs be announced earlier in the fishing year to allow tournament operators the flexibility to adapt their tournaments around RFDs. Publishing the proposed rule and affording an opportunity for comments on the proposed schedule earlier in the year would allow tournament operators the opportunity to comment and later to adjust their scheduled tournaments as needed around the 2022 RFDs. In 2021 after the RFD schedule had published, NMFS also received a request to establish a weekly schedule consisting of three days in a row such as Thursday, Friday, and Saturday. This request stated that a block of days would better assist the bluefin tuna product to move through the market, assist enforcement, and assist the industry with three consecutive days off. NMFS is not proposing that requested schedule at this time but specifically is requesting comment on this topic to help assess whether such a block of time would be less disruptive to the fishery and would better meet the goals of RFDs.

Additionally, in late 2021, NMFS received requests from some winter fishery participants to extend RFDs through the December subquota period. These dealers and General category participants suggested that establishing RFDs in December would assist in facilitating entry of BFT product to the market while also allowing rest days for commercial BFT fishermen. These requests specifically suggested Wednesdays and Saturdays as December subquota period RFDs. Over the last five years, closure of the December subquota period has been necessary in 2017, 2020, and 2021, with the fishery remaining open through the end of the month in 2018 and 2019.At this time NMFS is not proposing to extend RFDs through the December subquota period for the 2022 fishing year. However, in the **Federal Register** notice, NMFS specifically requests comment on whether RFDs should be extended through the December subquota period. NMFS will consider comments before deciding on a final schedule.

Lastly, NMFS also received a suggestion to implement RFDs for the January through March subquota period. Given that the 2022 January through March subquota period is currently underway, NMFS is not proposing RFDs for this period in this rulemaking, given timing considerations. However, NMFS requests comment on whether it could be appropriate to implement RFDs for the January through March subquota period in the future, including the 2023 January through March subquota period.

Under existing regulations, based on consideration of regulatory criteria at § 635.27(a)(8), NMFS may waive certain RFDs consistent with § 635.23(a)(4), either by adjusting the retention limit upwards on a previously-scheduled RFD or by waiving an RFD to allow recreational fishing under the Angling category restrictions and retention limits when the General category closes. Once the schedule is set, however, NMFS would not modify RFDs in other ways (*e.g.,* switching days or adding RFDs).

Request for Comments

NMFS is proposing a schedule of RFDs for every Tuesday, Friday, and Saturday from July 1, 2022, through November 30, 2022. NMFS is requesting comments on this RFD schedule for the 2022 fishing year. NMFS is also specifically requesting comments on (1) whether the RFD schedule should be three days in a row per week, (2) whether RFDs should also be considered for the General category December subquota period, and (3) whether RFDs should be considered for the January through March subquota period for future rulemakings since this subquota period is currently closed. Comments on this proposed rule may be submitted via *www.regulations.gov* or at a public conference call and webinar. NMFS solicits comments on this action by April 6, 2022 (see **DATES** and **ADDRESSES**).

During the comment period, NMFS will hold a public hearing via conference call and webinar for this proposed action. Requests for sign language interpretation or other auxiliary aids should be directed to Larry Redd at *larry.redd@noaa.gov* or 301–427–8503, at least 7 days prior to the meeting.

The conference call and webinar will take place on March 24, 2022. Information for registering and accessing the webinars can be found at *https://www.fisheries.noaa.gov/action/proposed-2022-restricted-fishing-days-atlantic-bluefin-tuna-fishery.*

The public is reminded that NMFS expects participants at conference calls and webinars to conduct themselves appropriately. At the beginning of each conference call and webinar, the moderator will explain how the conference call and webinar will be conducted and how and when participants can provide comments. NMFS representative(s) will structure the conference call and webinar so that all members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Participants are expected to respect the ground rules, and those that do not may be asked to leave the conference calls and webinars.

Classification

The NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, ATCA, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. Section 603(b)(1) requires agencies to describe the reasons why the action is being considered. The purpose of this proposed rulemaking is, consistent with the objectives of the 2006 Consolidated HMS FMP and its amendments, the Magnuson-Stevens Act, ATCA, and other applicable law, to potentially set a schedule of RFDs for the 2022 fishing year as an effort control for the General category quota, and to extend General category fishing opportunities through a greater portion of the General category subquota periods. Implementation of the proposal would further the management goals and objectives in the 2006 Consolidated HMS FMP and its amendments.

Section 603(b)(2) of the RFA requires agencies to state the objectives of, and legal basis for, the proposed action. The objective of this proposed rulemaking is to set a schedule of RFDs for the 2022 fishing year to increase the likelihood of pacing General category landings to extend fishing opportunities through a greater portion of the subquota periods (similar to the 2021 RFD schedule). The

legal basis for the proposed rule is the Magnuson-Stevens Act and ATCA.

Section 603(b)(3) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule would apply. NMFS established a small business size standard of $11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411) for RFA compliance purposes. The Small Business Administration (SBA) has established size standards for all other major industry sectors in the United States, including the scenic and sightseeing transportation (water) sector (NAICS code 487210), which includes for-hire (charter/party boat) fishing entities. The SBA has defined a small entity under the scenic and sightseeing transportation (water) sector as one with average annual receipts (revenue) of less than $8.0 million. NMFS considers all HMS permit holders, both commercial and for-hire, to be small entities because they had average annual receipts of less than their respective sector's standard of $11 million and $8 million. The 2020 total ex-vessel annual revenue for the BFT fishery was $8.4 million. Since a small business is defined as having annual receipts not in excess of $11.0 million, each individual BFT permit holder would fall within the small entity definition. The numbers of relevant annual Atlantic Tunas or Atlantic HMS permits as of October 2021 are as follows: 2,730 General category permit holders and 4,055 HMS Charter/Headboat permit holders, of which 1,793 hold HMS Charter/Headboat permits with a commercial sale endorsement.

Section 603(b)(4) of the RFA requires agencies to describe any new reporting, record-keeping, and other compliance requirements. This proposed rule does not contain any new collection of information, reporting, or record-keeping requirements. This proposed rule would set a schedule of RFDs for 2022 as an effort control for the General category.

Under section 603(b)(5) of the RFA, agencies must identify, to the extent practicable, relevant Federal rules which duplicate, overlap, or conflict with the proposed action. Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other fishery management measures. These include, but are not limited to, the Magnuson-Stevens Act, ATCA, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. This proposed action has been determined not to duplicate, overlap, or conflict with any Federal rules.

Under section 603(c) of the RFA, agencies must describe any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Specifically, the RFA (5 U.S.C. 603(c)(1)–(4)) lists four general categories of significant alternatives to assist an agency in the development of significant alternatives. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and, (4) exemptions from coverage of the rule, or any part thereof, for small entities.

Regarding the first, second, and fourth categories, NMFS cannot establish differing compliance or reporting requirements for small entities or exempt small entities from coverage of the rule or parts of it, because all of the businesses impacted by this rule are considered small entities, and thus the requirements are already designed for small entities. Regarding the third category, NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking.

This proposed rule would not change the U.S. Atlantic BFT quotas or implement any new management measures not previously considered under the 2006 Consolidated HMS FMP and its amendments. NMFS proposes continuation of the use of RFDs for the General category in 2022 and provides the regulated community the opportunity to comment on the proposed RFD schedule. Under the regulations, when a General category subquota period is reached or projected to be reached, NMFS closes the General category fishery. Retaining, possessing, or landing BFT under that quota category is prohibited on and after the effective date and time of a closure notice for that category, for the remainder of the fishing year, until the opening of the subsequent quota period or until such date as specified. In recent years, these closures, if needed, have generally occurred toward the end of a subquota period. According to communications with dealers and fishermen, several of the high-volume Atlantic tunas dealers in 2019 and 2020 were limiting their purchases of BFT and buying no or very few BFT (such as harpooned fish only) on certain days during the beginning portion of the June through August subquota period in order to extend the available quota until later in the subquota period given market considerations. However, while these actions may have prevented large numbers of BFT from entering the market at the same time and may have lengthened the time before any particular subquota period was closed, because these actions were not pre-scheduled or consistently implemented across the fishery, there were negative impacts experienced by some General category and Charter/Headboat permitted fishermen, who could not find buyers for their BFT. As a result, a number of BFT that normally would have been sold were not, and opportunities may not have been equitably distributed among all permitted vessels. In 2021, NMFS set pre-scheduled RFDs for the General category fishery on certain days (Tuesdays, Fridays, and Saturdays) from September through November to increase the likelihood of pacing General category landings to extend fishing opportunities through a greater portion of the subquota periods. Table 1 shows the number and total metric tons (mt) of BFT that were landed but not sold by fishermen fishing under the General category quota for 2017 through 2021. The number and weight of unsold BFT increased from 2018 through 2020, with a peak in 2020 (173 BFT and 25.8 mt) in part to the pandemic and substantially decreased in 2021 (from 143 to 12 BFT and 25.8 mt to 2.0 mt). NMFS believes this substantial reduction in 2021 from the peak in 2020 is a result of the use of RFDs in 2021.

TABLE 1—NUMBER (COUNT) AND WEIGHT (MT) OF BFT LANDED BUT UNSOLD BY GENERAL CATEGORY PARTICIPANTS BY YEAR

[2017–2021]

Year	Count	Weight (mt)
2017	0	0
2018	14	2.6
2019	20	3.8
2020	143	25.8
2021	12	2.0
Total	189	34.2

Table 2 shows the average ex-vessel price per pound of BFT during each General category subquota time period for 2017 through 2021. Ex-vessel price per pound was lower for the June through August period, with an average (2017 through 2021) of $6.21, and increased over the summer and fall period, with averages of $6.26 for the September period and $6.73 for the October through November period). In 2021, the average price per pound was higher for all time periods compared to the average price per pound during the time periods in 2020. In most time periods, the 2021 average price per pound was also higher than the 2019 average price per pound. NMFS believes that this increase in average price was in part due to the use of RFDs in 2021.

TABLE 2—AVERAGE EX-VESSEL PRICE PER POUND ($) OF BFT BY GENERAL CATEGORY SUBQUOTA TIME PERIOD

[2017–2021]

Year	Subquota time period				
	January through March	June through August	September	October through November	December
2017	$7.37	$6.72	$7.08	$7.56	$9.83
2018	7.43	6.92	6.55	7.58	9.56
2019	6.06	5.61	6.36	5.53	12.25
2020	6.13	4.90	5.21	5.61	5.76
2021	6.22	6.92	6.09	7.38	8.51
2017 through 2021 average	6.64	6.21	6.26	6.73	9.18

Table 3 shows the number of open days during each General category subquota time period for 2017 through 2021. On an annual basis, the average number of General category open days tends to be higher earlier in the fishing year (*i.e.,* 64 days for the January through March period and 79 days for the June through August period) and decreases as the season progresses into the late fall and winter seasons (*i.e.,* 21 days for September period, 21 days for October through November period, and 20 days for the December period). In 2021, the total number of open days was higher compared to the total number of days in 2019. NMFS set RFDs for the September and October through November subquota periods in 2021. Although the number of open days for the September 2021 subquota period was the lowest except for 2019, the October through November 2021 subquota period remained open for more days compared to the previous four years. NMFS believes that increase in fishing days was in part due to RFDs.

TABLE 3—GENERAL CATEGORY NUMBER OF OPEN DAYS BY SUBQUOTA TIME PERIOD

[2017–2021]

Year	Subquota time period					
	January through March	June through August	September	October through November	December	Total
2017	88	77	17	5	6	193
2018	61	92	23	15	31	222
2019	59	69	13	13	31	185
2020	55	91	27	11	14	200
2021	58	65	14	34	18	189
2017 through 2021 average	64	79	19	16	20	198

NMFS is proposing to establish a schedule of RFDs for the 2022 fishing year that would specify days on which fishing and sales will not occur. Specifically, the proposed schedule allows for two-consecutive-day periods twice each week for BFT product to move through the market while also allowing some commercial fishing activity to occur each weekend (*i.e.,* Sundays). Because this schedule of RFDs would apply to all participants equally, NMFS anticipates that this schedule would extend fishing opportunities through a greater proportion of the subquota periods in which they apply by spreading fishing effort out over time similar to the 2021 fishing season. Further, to the extent that the ex-vessel revenue for a BFT sold by a General or HMS Charter/Headboat permitted vessel (with a commercial endorsement) may be higher when a lower volume of domestically-caught BFT is on the market at one time, the use of RFDs may result in some increase in BFT price, and the value of the General category subquotas could increase similar to that of 2021. Thus, although NMFS anticipates that the same overall amount of the General category quota would be landed as well as the same amount of BFT landed per vessel, there may be some positive impacts to the General category and Charter/Headboat (commercial) BFT fishery. Using RFDs may more equitably distribute opportunities across all permitted vessels for longer durations within the subquota periods.

If NMFS does not implement a schedule, without any other changes, it is possible that the trends of increasing numbers of unsold BFT (Table 1) and decreasing ex-vessel prices (Table 2) from 2017 through 2020 could continue. Additionally, without RFDs in 2022, the General category could have fewer open days later in the fishing season when ex-vessel prices tend to be higher (Table 3) as observed in 2017 through 2020. If those trends were to continue, all active General category permit holders could experience negative economic impacts similar to 2019 and 2020 where dealers were limiting their purchases of BFT and buying no or very few BFT on certain days in order to extend the available quota.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: February 28, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220224–0058]

RIN 0648–BL16

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna and North Atlantic Albacore Quotas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing to modify the baseline annual U.S. quota and subquotas for Atlantic bluefin tuna and the baseline annual U.S. North Atlantic albacore (northern albacore) quota. This action is necessary to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted in 2021, as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received by April 6, 2022. NMFS will hold a public hearing via conference call and webinar for this proposed rule on March 24, 2022, from 2:30 p.m. to 4 p.m. EDT. For webinar registration information, see the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2022–0024, by electronic submission. Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov and enter* ''NOAA–NMFS–2022–0024'' in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Comments sent by any other method, to any other address or individual, or received after the close of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

NMFS will hold a public hearing via conference call and webinar on this proposed rule. For specific location, date and time, see the **SUPPLEMENTARY INFORMATION** section of this document.

Copies of this proposed rule and supporting documents are available from the Highly Migratory Species (HMS) Management Division website at *https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species* or by contacting Carrie Soltanoff at *carrie.soltanoff@noaa.gov* or 301–427–8503.

FOR FURTHER INFORMATION CONTACT: Carrie Soltanoff (*carrie.soltanoff@noaa.gov)* or Larry Redd, Jr. (*larry.redd@noaa.gov)* at 301–427–8503, or Steve Durkee (*steve.durkee@noaa.gov*) at 202–670–6637.

SUPPLEMENTARY INFORMATION: Atlantic tunas fisheries are managed under the authority of ATCA (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (2006 Consolidated HMS FMP) and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27 divides the U.S. bluefin tuna quota recommended by ICCAT and as implemented by the United States among domestic fishing categories and provides the annual bluefin tuna quota adjustment process. Section 635.23(e) implements the ICCAT-recommended U.S. northern albacore quota and provides the annual northern albacore quota adjustment process.

Since 1982, ICCAT has recommended a total allowable catch (TAC) of western Atlantic bluefin tuna for contracting parties fishing on the stock, and since 1991, ICCAT has recommended specific quotas within that TAC for the United States and other contracting parties. ICCAT adopted a 20-year rebuilding program for western Atlantic bluefin tuna in 1998. The rebuilding plan period was set as 1999 through 2018. In 2017, ICCAT adopted an interim conservation and management measure for western Atlantic bluefin tuna as to transition from the rebuilding program to a long-term management strategy for

the stock. Under this interim measure, ICCAT adopted a bluefin tuna TAC and associated U.S. quota, which NMFS implemented in a 2018 final rule (83 FR 51391; October 11, 2018). In 2009, ICCAT established a northern albacore rebuilding program, including a TAC and several provisions to limit catches by contracting parties (for major and minor harvesters). NMFS implemented the ICCAT-recommended U.S. northern albacore quota in the same 2018 quota rule (83 FR 51391; October 11, 2018).

Through this action, NMFS proposes to adjust the annual U.S. baseline bluefin tuna quota and subquotas and the annual U.S. baseline northern albacore quota to implement the quotas recommended by ICCAT as required by ATCA and to achieve domestic management objectives under the Magnuson-Stevens Act.

NMFS has prepared an Environmental Assessment (EA), Regulatory Impact Review (RIR), and an Initial Regulatory Flexibility Analysis (IRFA), which analyze the anticipated environmental, social, and economic impacts of several alternatives for each of the major issues contained in this proposed rule. A summary of the analyses is provided below. The full list of alternatives and their analyses are provided in the draft EA/RIR/IRFA and are not repeated here.

A copy of the draft EA/RIR/IRFA prepared for this proposed rule is available from NMFS (see **ADDRESSES**).

Bluefin Tuna Annual Quota and Subquotas

Recent ICCAT Stock Assessment and Recommendation

ICCAT sets bluefin tuna and northern albacore conservation and management measures, including TACs, following consideration of the latest stock assessment information and management advice provided by the Standing Committee on Research and Statistics (SCRS), ICCAT's scientific body. Starting in 2023, for northern albacore, three-year constant annual TACs will be set applying the harvest control rule established in the management procedure in ICCAT Recommendation 21–04.

The SCRS conducted a western bluefin tuna stock assessment in 2021. This assessment used data through 2020 and updated the modeling assumptions given scientific concerns expressed by the SCRS regarding the 2020 assessment update. The 2021 assessment results were more positive than in 2020 as detailed below.

Due to continued uncertainty regarding stock recruitment potential and the SCRS' continued inability to resolve the divergent (*i.e.,* low vs. high) recruitment potential scenarios, the SCRS did not estimate spawning stock biomass (SSB) or determine stock status based on maximum sustainable yield (MSY) reference points. Rather than presenting two SSB series based on these two scenarios, the SCRS presented total biomass information to assess the stock, which does not depend on which of these scenarios is selected. The 2021 stock assessment estimated that the total biomass increased by 9 percent over 2017 through 2020. In the 2021 assessment, the SCRS also concluded that overfishing was not occurring. In recent years, the SCRS has focused on giving short-term management advice based on an $F_{0.1}$ reference point (taken to be a proxy for achieving F_{MSY}) assuming that near term recruitment will be similar to the recent past recruitment. The $F_{0.1}$ strategy compensates for the effect of recruitment changes on biomass by allowing higher catches when recent recruitment is higher and reducing catches when recent recruitments are lower. Fishing consistently at $F_{0.1}$ will, over the long-term, cause the stock to fluctuate around the corresponding long-term biomass ($B_{0.1}$), whatever the future recruitment potential. The 2021 report indicates that the total allowable catch (TAC) in place for 2018 through 2021 likely did not lead to overfishing relative to $F_{0.1}$, and that the stock showed clear signs of several strong subsequent recruitment years. Domestically, following the 2017 stock assessment, NMFS determined that the overfished status for bluefin tuna is unknown and that the stock is not subject to overfishing, and this status remains in effect.

Recognizing that the results of the 2021 stock assessment and projections, including the Kobe matrix, do not capture the full degree of uncertainty regarding the spawner-recruit relationship, the effects of stock mixing, and other aspects of the assessment and projections, the SCRS recommended that managers should use the scientific advice with caution. Toward that end, the SCRS recommended that a moderate increase to the TAC was allowable and provided additional advice on alternative approaches to assist in determining the level of an appropriate moderate increase in TAC. Considering this advice, ICCAT adopted a TAC of 2,726 mt at its November 2021 meeting (Rec. 21–07), which is a 16-percent increase from the prior TAC of 2,350 mt. The recommendation describes the adopted TAC as a precautionary TAC that prevents overfishing with a high probability, prioritizes continued stock growth, including into the long-term, and ensures relative stability by avoiding a large fluctuation in catches.

Quotas and Domestic Allocations

Under ICCAT Recommendation 21–07, the annual U.S. quota is 1,316.14 mt, plus 25 mt to account for bycatch related to pelagic longline fisheries in the Northeast Distant gear restricted area (NED), resulting in a total of 1,341.14 mt. The 1,316.14-mt quota is an increase of 68.28 mt (5.5 percent) from the 1,247.86-mt level established via the 2018 quota rule. All TAC, quota, and weight information provided in this action are whole weight amounts.

This action proposes implementing the ICCAT-recommended quota of 1,341.14 mt, which would remain in effect until changed (for instance as a result of a new ICCAT bluefin tuna TAC and U.S. quota recommendation).

The ICCAT-recommended bluefin tuna quota proposed in this action would be divided among the established regulatory domestic bluefin tuna subquota categories. To calculate the subquotas under the existing regulations, 68 mt first is subtracted from the baseline annual U.S. bluefin tuna quota and allocated to the Longline category quota. Second, the remaining quota is divided among the categories according to the following percentages: General—47.1 percent; Angling—19.7 percent; Harpoon—3.9 percent; Purse Seine—18.6 percent; Longline—8.1 percent (plus the 68-mt initial allocation); Trap—0.1 percent; and Reserve—2.5 percent. The resulting subquotas would be codified at § 635.27(a) and would remain in effect until changed. Within the bluefin tuna quota proposed in this action and consistent with the ICCAT-recommended limit on the harvest of school bluefin tuna (measuring 27 to less than 47 inches curved fork length), the school bluefin tuna subquota would be 134.1 mt. The 25-mt NED allocation is in addition to these subquotas.

The table below shows the proposed quotas and subquotas that result from applying this process. These quotas would be codified at § 635.27(a) and would remain in effect until changed. The proposed rule for Amendment 13 to the 2006 Consolidated HMS FMP (86 FR 27686, May 21, 2021) proposed modifications to the category quotas specified in Table 1. NMFS is completing a Final Environmental Impact Statement and final rule for Amendment 13 and the quotas and subquotas are not affected by Amendment 13 at this time.

TABLE 1—PROPOSED ANNUAL ATLANTIC BLUEFIN TUNA QUOTAS

[In metric tons]

Category	Annual baseline quota	Subquotas		
General	587.9			
		January–March [1]	31.2	
		June–August	293.9	
		September	155.8	
		October–November	76.4	
		December	30.6	
Harpoon	48.7			
Longline	169.1			
Trap	1.2			
Purse Seine	232.2			
Angling	245.9			
		School	134.1	
		Reserve		24.8
		North of 39°18′ N lat.		51.6
		South of 39°18′ N lat.		57.7
		Large School/Small Medium	106.1	
		North of 39°18′ N lat		50.1
		South of 39°18′ N lat		56.0
		Trophy	5.7	
		North of 39°18′ N lat		1.9
		South of 39°18′ N lat		1.9
		Gulf of Mexico		1.9
Reserve	31.2			
U.S. Baseline Quota	[2] 1,316.14			
Total U.S. Quota, including 25 mt for NED (Longline)	[2] 1,341.14			

[1] January 1 through the effective date of a closure notice filed by NMFS announcing that the January subquota is reached or projected to be reached, or through March 31, whichever comes first.

[2] Totals subject to rounding error.

In addition to the proposed measures, in the EA for this action, NMFS analyzed a no action alternative that would maintain the current U.S. annual bluefin tuna quota of 1,247.86 mt and the current subquotas. The EA for this action describes the impacts of the no action alternative and the preferred alternative proposed here.

Northern Albacore Annual Quota

Recent ICCAT Stock Assessment and Recommendations

In 2020, the SCRS conducted a stock assessment using a production model and data through 2018. The stock assessment concluded that the relative abundance of northern albacore has continued to increase over the last years and that the probability of the stock being in the green quadrant of the Kobe plot (not overfished ($B \leq B_{MSY}$) and not undergoing overfishing ($F < F_{MSY}$)) is 98.4 percent. Following consideration of the 2020 stock assessment, ICCAT adopted an interim harvest control rule for northern albacore. Recommendation 20–04 established a one-year TAC of 37,801 mt for 2021, which represented a 12.5 percent increase with respect to the previous TAC established in 2017. Application of ICCAT's northern albacore allocations to Contracting Parties resulted in an annual U.S. quota of 711.5 mt, which was a 12.5-percent increase (79.1 mt) from the 632.4-mt quota. The recommendation called on ICCAT to review the interim harvest control rule in 2021 with a view to adopting a long-term management procedure at that point.

In 2021, ICCAT adopted Recommendation 21–04, which established a management procedure that resulted in maintaining the 2021 TAC of 37,801 mt (set using the initial harvest control rule) for 2022 and 2023, including the annual U.S. quota of 711.5 mt, which was first established in Recommendation 20–04. The management procedure establishes reference points, dictates that stock assessments shall be conducted every three years, sets a process for establishing a three-year constant annual TAC (beginning for the 2024–2026 management period) using values estimated from each stock assessment and through application of the recommendation's harvest control rule. The parameters of the harvest control rule include the following: ''the maximum catch limit recommended is 50,000 mt in order to avoid adverse effects of potentially inaccurate stock assessments,'' and the maximum change in the catch limit shall not exceed 25 percent in case of increase or 20 percent in case of decrease of the previous recommended catch limit when the current biomass is greater than or equal to the biomass threshold level. The recommendation called on the SCRS to test further harvest control rules supporting management objectives over 2022–2023. Additionally, the recommendation called on the Commission to review the management procedure established to consider if any revisions are needed taking into account any further analyses of harvest control rules in 2022 or 2023.

Domestic Quotas

Although an increase in the U.S. northern albacore quota to 711.5 mt was recommended for 2021 in ICCAT Recommendation 20–04, NMFS did not codify the quota increase at that time, due to the low level of northern albacore landings compared to the baseline quota, as described in the rule to adjust the 2021 northern albacore, swordfish,

and bluefin tuna Reserve category quotas (86 FR 54659, October 4, 2021).

At its 2021 annual meeting, under Recommendation 21–04, ICCAT adopted a management procedure for northern albacore and maintained the 711.5-mt U.S. northern albacore quota for 2022 and 2023. Accordingly, this action proposes modifying the baseline annual U.S. northern albacore quota from the 632.4-mt level established in the 2018 quota rule to 711.5 mt. The associated EA also analyzes the effects of three-year quotas of up to 950 mt, where the quota is set through application of Recommendation 21–04's harvest control rule. This level of 950 mt is derived from the maximum allowable catch limit recommended in the northern albacore management procedure. The maximum catch limit of 50,000 mt recommended in the management procedure represents an approximately 32 percent increase over the current TAC of 37,801 mt. Assuming the portion of the overall quota allocated to the United States remains the same in future years under the management procedure, such an increase would result in a maximum annual baseline U.S. quota of 950 mt. This analysis anticipates that NMFS would implement U.S. northern albacore quotas as recommended by ICCAT in accordance with the management procedure, up to the analyzed maximum baseline quota of 950 mt. The baseline quota would remain at 711.5 mt annually until changed by ICCAT. NMFS would implement any new baseline quotas through final rulemaking, assuming no new management measures are adopted or other relevant changes in circumstances occur. Additionally, consistent with current practice, NMFS annually would provide notice to the public of the baseline northern albacore quota with any annual adjustments as allowable for over- and underharvest in the **Federal Register** as appropriate. NMFS would evaluate the need for any additional environmental analyses or proposed and final rulemaking when a new quota is adopted by ICCAT and implemented by NMFS.

In addition to the proposed measures, in the EA for this action, NMFS analyzed a no action alternative that would maintain the current U.S. annual northern albacore quota of 632.4 mt, as well as an alternative that would implement the ICCAT-recommended 711.5-mt U.S. annual northern albacore quota without considering a maximum quota under the northern albacore management procedure. The EA for this action describes the impacts of these two alternatives and the preferred alternative proposed here.

Request for Comments

NMFS is requesting comments on this proposed rule which may be submitted via *www.regulations.gov* or at a public conference call/webinar. NMFS solicits comments on this action by April 6, 2022 (see **DATES** and **ADDRESSES**).

During the comment period, NMFS will hold a public hearing via conference call and webinar for this proposed action. Requests for sign language interpretation or other auxiliary aids should be directed to Carrie Soltanoff at *carrie.soltanoff@noaa.gov* or 301–427–8503, at least 7 days prior to the meeting.

The conference call and webinar will take place on March 24, 2022, from 2:30 p.m. to 4 p.m. EDT. Information for registering and accessing the webinar can be found at *https://www.fisheries.noaa.gov/action/changes-atlantic-bluefin-tuna-and-north-atlantic-albacore-quotas-proposed.*

The public is reminded that NMFS expects participants at public conference calls and webinars to conduct themselves appropriately. At the beginning of each conference call and webinar, the moderator will explain how the conference call and webinar will be conducted and how and when participants can provide comments. NMFS representative(s) will structure the conference call and webinars so that all members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Participants are expected to respect the ground rules, and those that do not may be asked to leave the conference call and webinars.

Classification

The NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, ATCA, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

Section 603(b)(1) requires agencies to describe the reasons why the action is being considered. The purpose of this proposed rulemaking is, consistent with the objectives of the 2006 Consolidated HMS FMP and its amendments, the Magnuson-Stevens Act, ATCA, and other applicable law, to analyze the impacts of the alternatives for implementing the ICCAT-recommended U.S. bluefin tuna and northern albacore quotas and allocating the bluefin tuna quota per the codified quota regulations.

Section 603(b)(2) of the RFA requires agencies to state the objectives of, and legal basis for, the proposed action. The objective of this proposed rulemaking is to implement ICCAT recommendations consistent with ATCA and achieve domestic management objectives under the Magnuson-Stevens Act. The legal basis for the proposed rule is the Magnuson-Stevens Act and ATCA.

Section 603(b)(3) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule would apply. NMFS established a small business size standard of $11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411) for RFA compliance purposes. The Small Business Administration (SBA) has established size standards for all other major industry sectors in the United States, including the scenic and sightseeing transportation (water) sector (NAICS code 487210), which includes for-hire (charter/party boat) fishing entities. The SBA has defined a small entity under the scenic and sightseeing transportation (water) sector as one with average annual receipts (revenue) of less than $8.0 million.

NMFS considers all HMS permit holders, both commercial and for-hire, to be small entities because they had average annual receipts of less than their respective sector's standard of $11 million and $8 million. Regarding those entities that would be directly affected by the preferred alternatives, the average annual revenue per active pelagic longline vessel is estimated to be $202,000, based on approximately 90 active vessels that produced an estimated $18.2 million in revenue in 2020, well below the NMFS small business size standard for commercial fishing businesses of $11 million. No single pelagic longline vessel has exceeded $11 million in revenue in recent years.

Other non-longline HMS commercial fishing vessels typically earn less

revenue than pelagic longline vessels and, thus, would also be considered small entities. Based on 2021 permit information, NMFS predicts that the preferred alternatives would apply to the following numbers of non-pelagic longline permit holders that fish commercially or engage in commercial activities: 2,730 General category, 4,055 Charter/Headboat, 35 Harpoon category, and 34 seafood dealers that purchase bluefin tuna and northern albacore. There are no Purse Seine category permits issued currently, however there are five historical participants in the purse seine fishery that are allocated bluefin tuna quota that may participate in the Individual Bluefin Quota (IBQ) leasing program.

NMFS has determined that the preferred alternatives would not likely directly affect any small organizations or small government jurisdictions defined under RFA, nor would there be disproportionate economic impacts between large and small entities.

This action would apply to all participants in the Atlantic tuna fisheries, *i.e.,* to the over 7,000 permit holders that held an Atlantic HMS Charter/Headboat or an Atlantic Tunas permit as of October 2021. This proposed rule is expected to directly affect commercial and for-hire fishing vessels that possess an Atlantic Tunas permit or Atlantic HMS Charter/Headboat permit. It is unknown what portion of HMS Charter/Headboat permit holders actively participate in the bluefin tuna and northern albacore fisheries or provide fishing services for recreational anglers. As summarized in the 2021 SAFE Report for Atlantic HMS, there were 7,104 commercial Atlantic tunas or Atlantic HMS permits in 2021, as follows: 2,730 in the Atlantic Tunas General category; 35 in the Atlantic Tunas Harpoon category; 282 in the Atlantic Tunas Longline category; 2 in the Atlantic Tunas Trap category; and 4,055 in the HMS Charter/Headboat category. The 90 active pelagic longline vessels described above are a subset of the 282 Atlantic Tunas Longline permits issued, 136 of which received IBQ shares. This constitutes the best available information regarding the universe of permits and permit holders recently analyzed. NMFS has determined that this action would not likely directly affect any small government jurisdictions defined under the RFA.

Section 603(b)(4) of the RFA requires agencies to describe any new reporting, record-keeping, and other compliance requirements. This proposed rule does not contain any new collection of information, reporting, or record-keeping requirements.

Under section 603(b)(5) of the RFA, agencies must identify, to the extent practicable, relevant Federal rules which duplicate, overlap, or conflict with the proposed action. Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other fishery management measures. These include, but are not limited to, the Magnuson-Stevens Act, ATCA, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. This proposed action has been determined not to duplicate, overlap, or conflict with any relevant regulations, Federal or otherwise.

Under section 603(c) of the RFA, agencies must describe any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Specifically, the RFA (5 U.S.C. 603(c)(1)–(4)) lists four general categories of significant alternatives to assist an agency in the development of significant alternatives. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and, (4) exemptions from coverage of the rule, or any part thereof, for small entities.

Regarding the first, second, and fourth categories, NMFS cannot establish differing compliance or reporting requirements for small entities or exempt small entities from coverage of the rule or parts of it, because all of the businesses impacted by this rule are considered small entities, and thus the requirements are already designed for small entities. Thus, no alternatives are discussed that fall under the first and fourth categories described above. Amendment 7 implemented criteria for determining the availability of bluefin tuna quota for Purse Seine category participants and IBQs for the Longline category. These criteria under Amendment 7 and the eligibility criteria for IBQs for the Longline category can be considered individual performance standards. NMFS has not yet found a practical means of applying individual performance standards to the other quota categories while concurrently complying with the Magnuson-Stevens Act. Thus, there are no alternatives considered under the third category.

This rulemaking proposes to implement the recently adopted ICCAT-recommended U.S. bluefin tuna and northern albacore quotas and, for bluefin tuna, to apply the allocations for each quota category per the codified quota regulations. This action would be consistent with ATCA, under which the Secretary promulgates regulations as necessary to implement binding ICCAT recommendations.

As described below, NMFS analyzed several different alternatives in this proposed rulemaking and provides rationales for identifying the preferred alternatives to achieve the desired objectives. The IRFA assumes that each permit holder will have similar catch and gross revenues to show the relative impact of the proposed action on permit holders.

For bluefin tuna, NMFS analyzed a no action alternative, Alternative A1, that would maintain the current U.S. annual bluefin tuna quota of 1,247.86 mt and the current subquotas. NMFS also analyzed Alternative A2, the preferred alternative, that would increase the U.S. annual bluefin tuna quota, as described below.

NMFS has estimated the average impact that establishing the increased annual U.S. baseline bluefin tuna quota for all domestic quota categories under the preferred alternative would have on individual categories and the permit holders within those categories. As mentioned above, the 2021 bluefin tuna ICCAT recommendation increased the annual U.S. baseline bluefin tuna quota for 1,316.14 mt and continues to provide 25 mt annually for incidental catch of bluefin tuna related to directed longline fisheries in the NED. The annual U.S. baseline bluefin tuna subquotas would be adjusted consistent with the process (*i.e.,* the formulas) established in Amendment 7 and as codified in the quota regulations (as shown in Table 1), and these amounts (in mt) would be codified. The proposed rule for Amendment 13 (86 FR 27686, May 21, 2021) proposed modifications to the annual U.S. baseline bluefin tuna subquotas. NMFS is completing a Final Environmental Impact Statement and final rule for Amendment 13. Amendment 13 does not affect the proposals in this action.

To calculate the average ex-vessel bluefin tuna revenues under this action, NMFS first estimated potential category-wide revenues. The most recent ex-vessel average price per pound

information for each commercial quota category is used to estimate potential ex-vessel gross revenues under the proposed subquotas (*i.e.,* 2021 prices for the General, Harpoon, Longline/Trap categories, and 2015 prices for the Purse Seine category). The proposed baseline subquotas could result in estimated gross revenues of $12.3 million annually, if finalized and fully utilized, broken out by quota category. Note that in recent years, the Purse Seine category has not landed any bluefin tuna and 75 percent of the Purse Seine quota has been transferred to the Reserve category, which typically is then transferred to the General category (this is a simplification for the purposes of this analysis, Reserve category quota can be transferred to any other category after consideration of regulatory criteria). The remaining 25 percent of Purse Seine category quota is available for leasing to Atlantic Tunas Longline permit holders under the IBQ Program. The following quota category amounts assume the 174.2 mt is transferred to the General category (75 percent of the purse seine quota) and 58.1 mt is available to the pelagic longline fishery (25 percent of the purse seine quota). Revenues in each category are as follows: General category: $9.3 million (762.1 mt * $5.55/lb); Harpoon category: $660,289 (48.7 mt * $6.15/lb); Purse Seine category: $0 million (0 mt * $3.21/lb); Longline category: $2.3 million (227.2 mt * $4.52/lb); and Trap category: $10,556 (1.2 mt * $3.99/lb).

Using the above methodology, the current baseline subquotas under Alternative A1 could result in estimated gross revenues of $11.6 million annually, if finalized and fully utilized, broken out by category. The following quota category amounts assume the 164.5 mt is transferred to the General category (75 percent of the purse seine quota) and 55 mt is available to the pelagic longline fishery (25 percent of the purse seine quota). Revenues in each category are as follows: General category: $8.8 million (720.2 mt * $5.55/lb); Harpoon category: $623,690 (46 mt * $6.15/lb); Purse Seine category: $0 (0 mt * $3.21/lb); Longline category: $2.2 million (218.6 mt * $4.52/lb); and Trap category: $10,556 (1.2 mt * $3.99/lb). Note that these revenues are likely an underestimation for the General and Harpoon categories, which typically receive additional quota from the Reserve category (*i.e.,* from the baseline Reserve subquota, and from the up to 10 percent of the U.S. baseline quota that could be carried forward from the previous year's underharvest). These revenues are likely an overestimation for the Longline and Trap categories, which do not typically land their entire quotas allocated for incidental bluefin tuna catch. For comparison, in 2021, gross revenues were approximately $12.0 million, broken out by category as follows: General—$10.5 million, Harpoon—$755,924, Purse Seine—$0, Longline—$753,067, and Trap—$0.

No affected entities would be expected to experience negative economic impacts as a result of this action. On the contrary, each of the bluefin tuna quota categories would increase relative to the baseline quotas that applied in prior years, and thus economic impacts would be expected to be positive.

To estimate the potential average ex-vessel revenues for each permit holder that could result from this action for bluefin tuna, NMFS divided the potential annual gross revenues for the General, Harpoon, Purse Seine, and Trap category by the number of permit holders. For the Longline category, NMFS divided the potential annual gross revenues by the number of permit holders that are IBQ share recipients. This is an appropriate approach for bluefin tuna fisheries, in particular, because available landings data (weight and ex-vessel value of the fish in price-per-pound) allow NMFS to calculate the gross revenue earned by a permit holder on a successful trip. The available data (particularly from non-Longline permit holders) do not, however, allow NMFS to calculate the effort and cost associated with each successful trip (*e.g.,* the cost of gas, bait, ice, etc.), so net revenue for each permit holder cannot be calculated. As a result, NMFS analyzes the average impact of the proposed alternatives among all permit holders in each category using gross revenues. The potential annual gross revenues reflect the analysis above, in which the Purse Seine category quota was divided among the General and Longline categories.

Success rates for catching and landing bluefin tuna vary widely across permit holders in each category (due to extent of vessel effort and availability of commercial-sized bluefin tuna to permit holders where they fish), but for the sake of estimating potential revenues per permit holder, category-wide revenues can be divided by the number of permits in each category. For the Longline fishery, category-wide revenue is divided by the number of permits that received IBQ shares to determine potential revenue per the 136 permit holders that are IBQ share recipients, as indicated below, and actual revenues would depend, in part, on each permit holder's IBQ in 2022. It is unknown what portion of HMS Charter/Headboat permit holders actively participate in the bluefin tuna fishery. HMS Charter/Headboat vessels may fish commercially under the General category quota and retention limits. Therefore, NMFS is estimating potential General category ex-vessel revenue changes using the number of General category permit holders only.

Estimated potential 2022 bluefin tuna revenues on a per permit holder basis under Alternative A1, the no action alternative, considering the number of permit holders and estimated gross revenues listed above, under the current subquotas, could be $3,228 for the General category permit holders; $17,819 for the Harpoon category permit holders; $0 for the Purse Seine category (no active vessels); $16,010 for the Longline category (using 136 IBQ share recipients); and $5,279 for the Trap category permit holders. Estimated potential 2022 bluefin tuna revenues on a per permit holder basis under the preferred alternative, considering the number of permit holders and estimated gross revenues listed above and the proposed subquotas, could be $3,407 for the General category permit holders; $18,865 for the Harpoon category permit holders; $0 for the Purse Seine category (no active vessels); $16,912 for the Longline category (using 136 IBQ share recipients); and $5,279 for the Trap category permit holders.

As noted above, there are no active purse seine vessels landing bluefin tuna, but Purse Seine category participants do lease bluefin tuna quota to Atlantic Tunas Longline permit holders under the IBQ Program. As described in Draft Amendment 13, the recent lease price for Purse Seine category quota is $1.25/lb. Under Alternative A1, if the full 55 mt of Purse Seine quota were leased to the Longline category, revenue for Purse Seine category participants would be $151,568, or $30,314 per participant ($151,568/5 participants). Under Alternative A2, if the full 58.1 mt of Purse Seine quota were leased to the Longline category, revenue for Purse Seine category participants would be $160,111, or $32,022 per participant.

Because the directed commercial categories have underharvested their subquotas in recent years, the potential increases in ex-vessel revenues under both alternatives likely overestimate the probable economic impacts to permit holders in those categories relative to recent conditions. Additionally, there has been substantial interannual variability in ex-vessel revenues in each category in recent years, due to recent changes in bluefin tuna availability and other factors. Overall, because the U.S.

quota has not been fully harvested in recent years and because the increase in quota under Alternative A2 is relatively minor, the expected economic impacts on individual permit holders as a result of this action is minor.

For northern albacore, NMFS analyzed three alternatives. Alternative B1, the no action alternative, would maintain the current U.S. baseline northern albacore quota of 632.4 mt. Alternative B2 would implement the 2021 northern albacore ICCAT recommendation that increased the annual U.S. baseline northern albacore quota to 711.5 mt. Alternative B3 would implement the 2021 ICCAT recommendation for northern albacore by establishing an annual baseline quota of 711.5 mt (the same level as in Alternative B2 for 2022) and would analyze and anticipate implementation of subsequent quotas set consistent with the management procedure's harvest control rule, with a maximum of 950 mt, consistent with the process set out in Recommendation 21–04. This quota would be adjusted annually for overharvest and underharvest consistent with existing regulations and ICCAT recommendations.

NMFS does not subdivide the U.S. northern albacore quota into category subquotas. The most recent ex-vessel average price per pound information is used to estimate potential ex-vessel gross revenues. Potential annual gross revenues are divided by the total number of Atlantic tunas or Atlantic HMS permit holders that are authorized to retain and sell northern albacore, however, note that not all permit holders will sell northern albacore each year. As described for bluefin tuna, this analysis excludes HMS Charter/Headboat permit holders and includes the 136 Atlantic Tunas Longline permit holders that received IBQ shares. In addition, trap category permit holders cannot retain northern albacore. The total number of permit holders that would potentially land northern albacore is 2,901 (2,730 in the Atlantic Tunas General category; 35 in the Atlantic Tunas Harpoon category; 136 in the Atlantic Tunas Longline category (IBQ share recipients)). If the entire quota is harvested under Alternative B1, the no action alternative, estimated annual gross revenues would be $1.75 million (632.4 mt ww/1.25 * $1.57/lb dw) and average annual revenue across all permit holders would be $604 ($1.75 million/2,901 permit holders). If the entire quota is harvested under Alternative B2, estimated annual gross revenues would be $1.97 million (711.5 mt ww/1.25 * $1.57/lb dw) and average annual revenue across all permit holders would be $679 ($1.97 million/2,901 permit holders). If the entire maximum quota is harvested under Alternative B3, the preferred alternative, estimated annual gross revenues would be $2.63 million (950 mt ww/1.25 * $1.57/lb dw) and average annual revenue across all permit holders would be $907 ($2.63 million/2,901 permit holders). In the short-term, Alternative B3 would set the same quota and produce the same estimated revenue as Alternative B2.

Because the directed commercial fishery has underharvested the quota in recent years, the potential increases in ex-vessel revenues under the three analyzed alternatives likely overestimate the probable economic impacts relative to recent conditions. Additionally, there has been substantial interannual variability in ex-vessel revenues in recent years, due to recent changes in northern albacore availability and other factors. Overall, because the U.S. quota has not been fully harvested in recent years and because the increase in quota under Alternative B3 is relatively minor, the expected economic impacts on individual permit holders as a result of this action is minor.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: February 28, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

■ 2. In § 635.27, revise paragraphs (a) introductory text, (a)(1)(i), (a)(2), (a)(3), (a)(4)(i), (a)(5), (a)(7)(i), (a)(7)(ii), and (e)(1) to read as follows:

§ 635.27 Quotas.

(a) *Bluefin tuna.* Consistent with ICCAT recommendations, and with paragraph (a)(10)(iv) of this section, NMFS may subtract the most recent, complete, and available estimate of dead discards from the annual U.S. bluefin tuna quota, and make the remainder available to be retained, possessed, or landed by persons and vessels subject to U.S. jurisdiction. The remaining baseline annual U.S. bluefin tuna quota will be allocated among the General, Angling, Harpoon, Purse Seine, Longline, Trap, and Reserve categories, as described in this section. Bluefin tuna quotas are specified in whole weight. The baseline annual U.S. bluefin tuna quota is 1,316.14 mt, not including an additional annual 25-mt allocation provided in paragraph (a)(3) of this section. The bluefin quota for the quota categories is calculated through the following process. First, 68 mt is subtracted from the baseline annual U.S. bluefin tuna quota and allocated to the Longline category quota. Second, the remaining quota is divided among the categories according to the following percentages: General—47.1 percent (587.9 mt); Angling—19.7 percent (245.9 mt), which includes the school bluefin tuna held in reserve as described under paragraph (a)(7)(ii) of this section; Harpoon—3.9 percent (48.7 mt); Purse Seine—18.6 percent (232.2 mt); Longline—8.1 percent (101.1) plus the 68-mt allocation (*i.e.,* 169.1 mt total not including the 25-mt allocation from paragraph (a)(3)); Trap—0.1 percent (1.2 mt); and Reserve—2.5 percent (31.2 mt). NMFS may make inseason and annual adjustments to quotas as specified in paragraphs (a)(9) and (10) of this section, including quota adjustments as a result of the annual reallocation of Purse Seine quota described under paragraph (a)(4)(v) of this section.

(1) * * *

(i) Catches from vessels for which General category Atlantic Tunas permits have been issued and certain catches from vessels for which an HMS Charter/Headboat permit has been issued are counted against the General category quota in accordance with § 635.23(c)(3). Pursuant to paragraph (a) of this section, the amount of large medium and giant bluefin tuna that may be caught, retained, possessed, landed, or sold under the General category quota is 587.9 mt, and is apportioned as follows, unless modified as described under paragraph (a)(1)(ii) of this section:

(A) January 1 through the effective date of a closure notice filed by NMFS announcing that the January subquota is reached, or projected to be reached under § 635.28(a)(1), or through March 31, whichever comes first—5.3 percent (31.2 mt);

(B) June 1 through August 31—50 percent (293.9 mt);

(C) September 1 through September 30—26.5 percent (155.8 mt);

(D) October 1 through November 30—13 percent (76.4 mt); and

(E) December 1 through December 31—5.2 percent (30.6 mt).

* * * * *

(2) *Angling category quota.* In accordance with the framework procedures of the Consolidated HMS FMP, prior to each fishing year, or as early as feasible, NMFS will establish the Angling category daily retention limits. In accordance with paragraph (a) of this section, the total amount of bluefin tuna that may be caught, retained, possessed, and landed by anglers aboard vessels for which an HMS Angling permit or an HMS Charter/Headboat permit has been issued is 245.9 mt. No more than 2.3 percent (5.7 mt) of the annual Angling category quota may be large medium or giant bluefin tuna. In addition, no more than 10 percent of the annual U.S. bluefin tuna quota, inclusive of the allocation specified in paragraph (a)(3) of this section, may be school bluefin tuna (*i.e.,* 134.1 mt). The Angling category quota includes the amount of school bluefin tuna held in reserve under paragraph (a)(7)(ii) of this section. The size class subquotas for bluefin tuna are further subdivided as follows:

(i) After adjustment for the school bluefin tuna quota held in reserve (under paragraph (a)(7)(ii) of this section), 52.8 percent (57.7 mt) of the school bluefin tuna Angling category quota may be caught, retained, possessed, or landed south of 39°18′ N lat. The remaining school bluefin tuna Angling category quota (51.6 mt) may be caught, retained, possessed or landed north of 39°18′ N lat.

(ii) An amount equal to 52.8 percent (56 mt) of the large school/small medium bluefin tuna Angling category quota may be caught, retained, possessed, or landed south of 39°18′ N. lat. The remaining large school/small medium bluefin tuna Angling category quota (50.1 mt) may be caught, retained, possessed or landed north of 39°18′ N lat.

(iii) One third (1.9 mt) of the large medium and giant bluefin tuna Angling category quota may be caught retained, possessed, or landed, in each of the three following geographic areas: North of 39°18′ N lat.; south of 39°18′ N lat., and outside of the Gulf of Mexico; and in the Gulf of Mexico. For the purposes of this section, the Gulf of Mexico region includes all waters of the U.S. EEZ west and north of the boundary stipulated at 50 CFR 600.105(c).

(3) *Longline category quota.* Pursuant to paragraph (a) of this section, the total amount of large medium and giant bluefin tuna that may be caught, discarded dead, or retained, possessed, or landed by vessels that possess Atlantic Tunas Longline category permits is 169.1 mt. In addition, 25 mt shall be allocated for incidental catch by pelagic longline vessels fishing in the Northeast Distant gear restricted area, and subject to the restrictions under § 635.15(b)(8).

(4) * * *

(i) *Baseline Purse Seine quota.* Pursuant to paragraph (a) of this section, the baseline amount of large medium and giant bluefin tuna that may be caught, retained, possessed, or landed by vessels that possess Atlantic Tunas Purse Seine category permits is 232.2 mt, unless adjusted as a result of inseason and/or annual adjustments to quotas as specified in paragraphs (a)(9) and (10) of this section; or adjusted (prior to allocation to individual participants) based on the previous year's catch as described under paragraph (a)(4)(v) of this section. Annually, NMFS will make a determination when the Purse Seine fishery will start, based on variations in seasonal distribution, abundance or migration patterns of bluefin tuna, cumulative and projected landings in other commercial fishing categories, the potential for gear conflicts on the fishing grounds, or market impacts due to oversupply. NMFS will start the bluefin tuna purse seine season between June 1 and August 15, by filing an action with the Office of the Federal Register, and notifying the public. The Purse Seine category fishery closes on December 31 of each year.

* * * * *

(5) *Harpoon category quota.* The total amount of large medium and giant bluefin tuna that may be caught, retained, possessed, landed, or sold by vessels that possess Harpoon category Atlantic Tunas permits is 48.7 mt. The Harpoon category fishery commences on June 1 of each year, and closes on November 15 of each year.

* * * * *

(7) * * *

(i) The total amount of bluefin tuna that is held in reserve for inseason or annual adjustments and research using quota or subquotas is 31.2 mt, which may be augmented by allowable underharvest from the previous year, or annual reallocation of Purse Seine category quota as described under paragraph (a)(4)(v) of this section. Consistent with paragraphs (a)(8) through (10) of this section, NMFS may allocate any portion of the Reserve category quota for inseason or annual adjustments to any fishing category quota.

(ii) The total amount of school bluefin tuna that is held in reserve for inseason or annual adjustments and fishery-independent research is 18.5 percent (24.8 mt) of the total school bluefin tuna Angling category quota as described under paragraph (a)(2) of this section. This amount is in addition to the amounts specified in paragraph (a)(7)(i) of this section. Consistent with paragraph (a)(8) of this section, NMFS may allocate any portion of the school bluefin tuna Angling category quota held in reserve for inseason or annual adjustments to the Angling category.

* * * * *

(e) * * *

(1) Annual quota. Consistent with ICCAT recommendations, the ICCAT northern albacore management procedure, and domestic management objectives, the baseline annual quota, before any adjustments, is 711.5 mt. The total quota, after any adjustments made per paragraph (e)(2) of this section, is the fishing year's total amount of northern albacore tuna that may be landed by persons and vessels subject to U.S. jurisdiction.

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[FR Doc. 2022–04542 Filed 3–4–22; 8:45 am]

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Notices

Federal Register
Vol. 87, No. 44
Monday, March 7, 2022

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0070]

Classify the State of Sonora, Mexico, as Level I for Brucellosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to classify the State of Sonora, Mexico as Level I for brucellosis. This recognition is based on an evaluation we prepared in connection with this action, which we made available to the public for review and comment through a previous notice.

DATES: Imports under this classification may be authorized beginning March 7, 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Kelly Rhodes, Senior Staff Veterinarian, Regionalization Evaluation Services, Strategy and Policy, VS, APHIS, USDA, 4700 River Road, Unit 38, Riverdale, MD 20737–1231; (301) 851–3315; *Ask.Regionalization@usda.gov.*

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 93, subpart D (§§ 93.400 through 93.442, referred to below as part 93 or the subpart), contain requirements for the importation of ruminants into the United States to address the risk of introducing or disseminating diseases of livestock within the United States. Part 93 currently contains provisions that address the risk that imported bovines (cattle or bison) may introduce or disseminate bovine tuberculosis or brucellosis within the United States. Within part 93, § 93.440 contains the requirements for classification of foreign regions for brucellosis and § 93.441 contains the process for requesting regional classification for brucellosis. In accordance with § 93.440(d), the Animal and Plant Health Inspection Service (APHIS) maintains lists of all Level I, Level II, and Level III regions for brucellosis and adds regions classified in accordance with § 93.441 to these lists.

Paragraph (a) of § 93.441 provides that a representative of a national government with authority to make such a request may request that APHIS classify a region for brucellosis. Within the same section, paragraph (b) provides that if, after reviewing and evaluating the request for brucellosis classification, APHIS believes the region can be accurately classified, APHIS will publish a notice in the **Federal Register** with the proposed classification and make its evaluation available for public comment. Following the close of the comment period, APHIS will review all comments received and will make a final determination regarding the request that will be detailed in another document published in the **Federal Register**.

In accordance with that process, we published a notice [1] in the **Federal Register** on February 24, 2021 (86 FR 11219–11220, Docket No. APHIS–2020–0070), in which we announced the availability, for review and comment, of an evaluation of the State of Sonora, Mexico for brucellosis classification, as well as an environmental assessment (EA). The notice proposed to classify Sonora as Level I for brucellosis.

We solicited comments on the notice for 60 days ending April 26, 2021. We received two comments by that date. The comments were from private citizens.

One commenter stated that it was difficult to know what the different classification levels for disease status meant and asked that we explain what they meant. The other commenter asked why we wanted to classify Sonora as Level I for brucellosis and what evidence we had to support that decision.

As we explained in the notice, § 93.440 of the regulations contains the requirements for classification of foreign regions for brucellosis and § 93.441 contains the process for requesting regional classification for brucellosis. As part of the process for requesting regional classification, the national government of the region must submit an application to APHIS that defines the boundaries of the region, specifies the prevalence level for brucellosis within the region, and demonstrate that, among other things:

- There is effective veterinary control and oversight within the region;
- That brucellosis is a notifiable disease within the region;
- The region has a program for brucellosis in place that includes epidemiological investigations, management of affected herds, diagnostic testing, and disease surveillance.

When the application is complete, APHIS will review and evaluate the request for classification. If, based on that evaluation, we believe the region can be accurately classified for brucellosis, we will publish a notice in the **Federal Register** proposing to classify the region according to § 93.440, and make available to the public the information upon which this proposed classification is based.

The specific requirements for classification as a Level I region for brucellosis are set out in paragraph (a) of § 93.440. To receive Level I classification for brucellosis, a region must meet APHIS requirements for brucellosis classification in accordance with § 93.441, and also have a prevalence of brucellosis in their domestic bovine herds of less than 0.001 percent over at least the previous 2 years (24 consecutive months).

In the evaluation titled ''APHIS Evaluation of the State of Sonora, Mexico for Bovine Brucellosis (*Brucella abortus*) Classification'' (September 2017) that accompanied our February 24, 2021 notice,[2] we set forth the results of our evaluation of the State of Sonora, Mexico for bovine brucellosis. APHIS concluded that Sonora fully meets the APHIS requirements for classification and that brucellosis has not been confirmed in a bovine animal in Sonora since 2009, qualifying Sonora for Level I classification for brucellosis.

One commenter asked about the significance of classifying Sonora as a Level I region compared to the impact of Level II or Level III classifications, and how the classification as Level I, II, and III would impact Sonora economically.

[1] To view the notice, evaluation, environmental assessment, and comments we received go to *www.regulations.gov* and enter APHIS–2020–0070 in the Search field.

[2] See footnote 1.

As we explained above, the requirements for classification as a region for brucellosis are set out in § 93.440 of the regulations. To receive Level I or II classification for brucellosis, a region must meet APHIS requirements for brucellosis classification in accordance with § 93.441. Level I regions must also have a prevalence of brucellosis in their domestic bovine herds of less than 0.001 percent over at least the previous 2 years (24 consecutive months). Level II regions must have a prevalence of brucellosis in their domestic bovine herds equal to or greater than 0.001 percent, but less than 0.01 percent over at least the previous 2 years (24 consecutive months). Level III regions do not meet APHIS requirements for brucellosis classification in accordance with § 93.441, have a prevalence of brucellosis in their domestic bovine herds equal to or greater than 0.01 percent, or are unassessed by APHIS with regard to brucellosis prevalence.

The requirements for importation of ruminants from any part of the world with respect to brucellosis are linked to the classification levels, as described in § 93.442 of the regulations. The regulations provide that steers and spayed heifers may be imported into the United States from anywhere in the world without additional restrictions. Sexually intact cattle from Level I regions may also be imported into the United States without additional restrictions. However, sexually intact cattle from Level II and Level III regions are subject to restrictions, such as originating in accredited herds, or whole herd and individual testing requirements.

Consequently, classification as Level I will effectively exempt sexually intact cattle from Sonora from brucellosis testing prior to export, saving Sonoran producers the cost of testing or the cost of castrating bulls and spaying heifers to avoid the testing requirement. Under Level II or III, producers would still bear those costs.

One commenter asked if brucellosis posed an immediate threat to the people of the United States.

As we explained in the evaluation that accompanied the initial notice, bovine brucellosis is caused by the bacterium *Brucella abortus.* Infection with *B. abortus* causes abortions and stillbirths in cattle. *B. abortus* also affects other species including bison, buffalo, and elk. In addition, *B. abortus* is a human pathogen that can cause serious disease. Human cases of brucellosis in the United States are rare, can be treated with antibiotics, and can be prevented with appropriate food safety measures.

One commenter asked what efforts will be taken to stop the spread of brucellosis, and if the export of beef would still be allowed.

In the event that the prevalence of brucellosis in Sonora rises to above 0.001 percent, APHIS will take action to reclassify the region as Level II or III, as appropriate, and impose the corresponding restrictions on imported bovines. Reclassification would not result in changes to the requirements for exporting beef to the United States from Sonora.

One commenter asked what effect brucellosis would have on the production of food in the area and how this could hurt the citizens.

As we explained in the evaluation that accompanied the initial notice, Sonora has averaged 28 cases of brucellosis in humans annually since 2002, primarily due to *B. abortus.* Public health officials in Sonora attribute the majority of cases to exposure through soft cheeses and/or raw milk from other Mexican States. Animal and public health officials in Sonora work closely to monitor the incidence of brucellosis in humans and investigate any potential connection to Sonoran livestock. For example, a case rate spike in humans in 2010 led to detection of an infected goat herd that produced cheese and milk for local consumption.

Therefore, in accordance with the regulations in §§ 93.440 and 93.441, we are announcing our decision to classify the State of Sonora, Mexico as Level I for brucellosis, and to add the State of Sonora to the web-based list of Level I regions for brucellosis. Bovines from the State of Sonora may be imported under the conditions listed in §§ 93.439 and 93.442 for the appropriate classification level.

National Environmental Policy Act

On December 27, 2022, we published in the **Federal Register** a notice (86 FR 73238–73239, Docket No. APHIS–2020–0071) announcing that we were classifying Canada as Level I for brucellosis and bovine tuberculosis. That final notice was accompanied by a final environmental assessment and finding of no significant impact (FONSI). The final environmental assessment and FONSI also evaluated the possible environmental impacts associated with classifying Sonora as Level I for brucellosis. Accordingly, we direct the public to *https://www.regulations.gov/docket/APHIS-2020-0071* to view those documents, and are not republishing them for this action.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this action as not a major rule, as defined by 5 U.S.C. 804(2).

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 1st day of March 2022.

Anthony Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2022–04720 Filed 3–4–22; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed New Fee Site(s)

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of proposed new fee sites.

SUMMARY: The Santa Fe National Forest is proposing to charge new fees at recreation sites listed in **SUPPLEMENTARY INFORMATION** of this notice. Funds from fees would be used for operation, maintenance, and improvements of these recreation sites. An analysis of nearby developed recreation sites with similar amenities shows the proposed fees are reasonable and typical of similar sites in the area.

DATES: If approved, the new fee would be implemented no earlier than six months following the publication of this notice in the **Federal Register**.

ADDRESSES: Santa Fe National Forest, 11 Forest Lane, Santa Fe, NM 87508.

FOR FURTHER INFORMATION CONTACT: Jeremy Golston, Recreation Program Manager, 505–438–5375 or *jeremy.golston@usda.gov.*

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six-month advance notice in the **Federal Register** whenever new recreation fee areas are established. The fees are only proposed at this time and will be determined upon further analysis and public comment. Reasonable fees, paid by users of these sites, will help ensure that the Forest can continue maintaining and improving recreation sites like this for future generations.

The Big Tesuque campground is proposed at $10 per night. The Johnson Mesa, Links Tract, and Oak Flats campgrounds are proposed at $10 for a single and $20 for a double site. Windy Bridge campground is proposed at $15 per night. The Rio Chama campground is proposed at $20 per night. In addition, a $5 extra vehicle fee is proposed for Links Tract, Big Tesuque, Oak Flats, Windy Bridge, Rio Chama, Ev Long, El Porvenir, Holy Ghost, Cowles, Iron Gate, Panchuela, and Johnson Mesa campgrounds.

As part of this proposal, a $5 day-use fee per vehicle at San Gregorio, Big Tesuque, Black Canyon, Little Tesuque, Aspen Vista, Winsor, Winsor Creek, Winsor Ridge, Upper Dalton Fishing Access, Cowles Ponds, East Fork, Dark Canyon, La Junta, Las Casitas, La Cueva, Jemez Falls, Big Eddy Take Out, Chavez Canyon, and Clear Creek would be added to improve services and facilities. A new state-wide New Mexico annual pass is being proposed for $40 for day use sites. The full suite of Interagency passes would be honored.

New fees would provide increased visitor opportunities, as well as increased staffing to address operations and maintenance needs and enhance customer service. Once public involvement is complete, these new fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Advanced reservations for campgrounds and cabins will be available through *www.recreation.gov* or by calling 1–877–444–6777. The reservation service charges an $8.00 fee for reservations.

Dated: March 1, 2022.

Sandra Watts,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2022–04702 Filed 3–4–22; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Tennessee Advisory Committee

AGENCY: Commission on Civil Rights

ACTION: Announcement of meeting

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the Tennessee Advisory Committee to the Commission will convene by conference call on Wednesday, March 23, 2022, at 11:00 a.m. (CT). The purpose is to plan the Committee's upcoming briefings.

DATES: The meeting will be held on: Wednesday, March 23, 2022, 11:00 a.m. CT.

ADDRESSES:

Join from the meeting link: https://civilrights.webex.com/civilrights/j.php?MTID=mfeb08f21298d47855e4eeb0398c0264b.

Join via phone: 800–360–9505 USA Toll Free; Access Code: 2761 284 4248 #.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno at *vmoreno@usccr.gov* or by phone at 434–515–0204.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the WebEx link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the call-in number found through registering at the web link provided above for the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the respective meeting. Written comments may be emailed to Victoria Moreno at *vmoreno@usccr.gov.* All written comments received will be available to the public.

Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at the *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

Agenda

Wednesday, March 23, 2022; 11:00 a.m. (CT)

1. Welcome & Roll Call
2. Chair's Comments
3. Briefing Planning
4. Briefing Guidelines
5. Next Steps
6. Public Comment
7. Adjourn

Dated: March 1, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–04696 Filed 3–4–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of Commission public business meeting.

DATES: Friday, March 11, 2022, 12 p.m. EST.

ADDRESSES: Meeting to take place by telephone and is open to the public by telephone: 1–877–222–5769, Conference ID #: 7593815.

FOR FURTHER INFORMATION CONTACT: Angelia Rorison: 202–376–7700; *publicaffairs@usccr.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Government in Sunshine Act (5 U.S.C. 552b), the Commission on Civil Rights is holding a meeting to discuss the Commission's business for the month of January. This business meeting is open to the public. Computer assisted real-time transcription (CART) will be provided. The web link to access CART (in English) on Friday, March 11, 2022, is *https://www.streamtext.net/player?event=USCCR.* Please note that CART is text-only translation that occurs in real time during the meeting and is not an exact transcript.

Meeting Agenda

I. Approval of Agenda
II. Business Meeting
- A. Presentations by State Advisory Committee Chairs on Released Reports and Memorandums
- B. Discussion and Vote on Advisory Committee Appointments
- C. Discussion and Vote to Appoint Samantha Le as interim Chair of the Maine Advisory Committee
- D. Discussion and Vote to Appoint Wayne Heard as Chair of the Washington, DC Advisory Committee
- E. Management and Operations
- Staff Director's Report

III. Adjourn Meeting

Dated: March 3, 2022.

Angelia Rorison,

USCCR Media and Communications Director.

[FR Doc. 2022–04880 Filed 3–3–22; 4:15 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–839]

Steel Propane Cylinders From Thailand: Final Results of Antidumping Duty Administrative Review; 2018–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that Sahamitr Pressure Container Plc. (also known as Sahamitr Pressure Container Public Company Limited) made sales of subject merchandise at less than normal value during the period of review (POR), December 27, 2018, through July 31, 2020.

DATES: Applicable March 7, 2022.

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8362.

SUPPLEMENTARY INFORMATION:

Background

On September 2, 2021, Commerce published the *Preliminary Results* [1] and invited interested parties to comment on the *Preliminary Results.* On December 14, 2021, Commerce extended the deadline for the final results to March 1, 2022.[2] For a summary of events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[3] Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order [4]

The merchandise covered by the *Order* is steel propane cylinders from Thailand. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Results of the Review

Commerce determines that the following weighted-average dumping margin exists for the period December 27, 2018, through July 31, 2020:

Exporter/producer	Weighted-average dumping margin (percent)
Sahamitr Pressure Container Plc	13.89

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after publication of these final results in the **Federal Register**, in accordance with section 751(a) of the Act and 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. We will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of the importer's sales in accordance with 19 CFR 351.212(b)(1).

Where the respondent's weighted-average dumping margin is either zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce's ''automatic assessment'' practice will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[6]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Sahamitr Pressure Container Plc. will be equal to its weighted-average dumping margin established in the final results of this administrative review (except if that rate is *de minimis,* in which situation the cash deposit rate will be zero); (2) for merchandise exported by a producer or exporter not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer has been covered in a prior complete segment of this proceeding, the cash deposit rate will be the company-specific rate established for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters

[1] *See Steel Propane Cylinders from Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2018–2020,* 86 FR 49295 (September 2, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Steel Propane Cylinders from Thailand: Extension of Time Limit for Final Results of Antidumping Duty administrative Review; 2018/2020,'' dated December 14, 2021.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Steel Propane Cylinders from Thailand; 2018–2020,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See Steel Propane Cylinders from the People's Republic of China and Thailand: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Orders,* 84 FR 41703 (August 15, 2019) (*Order*).

[5] *See* Issues and Decision Memorandum at ''Scope of the Order.''

[6] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

will continue to be 10.77 percent,[7] the all-others rate established in the less-than-fair-value investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: March 1, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Final Decision Memorandum

[FR Doc. 2022–04756 Filed 3–4–22; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See Order,* 84 FR at 41704.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–883]

Certain Hot-Rolled Steel Flat Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that the producers/exporters subject to this review made sales of subject merchandise at less than normal value during the period of review (POR), October 1, 2019, through September 30, 2020.

DATES: Applicable March 7, 2022.

FOR FURTHER INFORMATION CONTACT: Christopher Williams or Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5166 or (202) 482–0410, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 29, 2021, Commerce published the preliminary results of the 2019–2020 administrative review of the antidumping duty order on hot-rolled steel flat products (hot-rolled steel) from the Republic of Korea (Korea).[1] This review covers two producer/exporters of the subject merchandise, Hyundai Steel Company (Hyundai Steel) and POSCO.[2] We invited parties to comment on the *Preliminary Results.*[3] On November 29, 2021, we received case briefs from the petitioners [4] and from the mandatory respondents, Hyundai Steel and POSCO.[5] On December 6, 2021, the petitioners, Hyundai Steel, and POSCO submitted rebuttal briefs.[6] Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the *Order* [7] are hot-rolled steel. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.[8]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this administrative review are addressed in the Issues and Decision Memorandum and are listed in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

[1] *See Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2019–2020,* 86 FR 59985 (October 29, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] We initiated this review with respect to POSCO and POSCO Daewoo Corporation. We preliminarily found that POSCO International Corporation (PIC) is the successor-in-interest to POSCO Daewoo Corporation (PDW) and treated POSCO and PIC as a single entity. *See* Preliminary Decision Memorandum. For the final results, we continue treat POSCO and PIC as a single entity, hereinafter collectively referred to as POSCO. *See* ''Successor-in-Interest Determination'' and ''Affiliation and Single Entity Treatment'' sections of this notice.

[3] *See Preliminary Results,* 86 FR at 59985.

[4] *See* Petitioners' Letter, ''Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Petitioners' Case Brief,'' dated November 29, 2021. The petitioners are SSAB Enterprises, LLC, and Steel Dynamics, Inc. (collectively, the petitioners).

[5] *See* Hyundai Steel's Letter, ''Certain Hot-Rolled Steel Flat Products from Korea, 10/01/2019–9/30/2020 Administrative Review, Case No. A–580–883: Hyundai Steel's Case Brief'' dated November 29, 2021; and POSCO's Letter, ''Hot-Rolled Steel Flat Products from the Republic of Korea—POSCO's Case Brief,'' dated November 29, 2021.

[6] *See* Petitioners' Letter, ''Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Petitioners' Rebuttal Brief,'' dated December 6, 2021; *see also* Hyundai Steel's Letter, ''Certain Hot-Rolled Steel Flat Products from Korea, 10/01/2019–9/30/2020 Administrative Review, Case No. A–580–883: Hyundai Steel's Case Brief''; and POSCO's Letter, ''Hot-Rolled Steel Flat Products from the Republic of Korea—POSCO's Rebuttal Brief,'' both dated December 6, 2021.

[7] *See Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders,* 81 FR 67962 (October 3, 2016) (*Order*).

[8] *See* Memorandum, ''Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review; 2019–2020,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Successor-in-Interest Determination

We preliminarily found that PIC is the successor in interest to PDW for purposes of determining AD duty cash deposits and liabilities on the subject merchandise and the current cash deposit rate assigned to PDW should be the cash deposit rate for PIC as a result of our successor-in-interest finding.[9] Since the *Preliminary Results,* no interested party commented on our preliminary finding. Accordingly, we continue to find that PIC is the successor-in-interest to PDW.

Affiliation and Single Entity Treatment

We preliminarily found that POSCO and PIC are affiliated and should be treated as a single entity pursuant to 19 CFR 351.401(f).[10] Since the *Preliminary Results,* no interested party commented on this preliminary finding. Accordingly, we continue to find that POSCO and PIC should be treated as a single entity.

Changes Since the Preliminary Results

Based on the comments received from interested parties regarding our *Preliminary Results,* and for the reasons explained in the Issues and Decision Memorandum, we made certain changes for the final results of review.

Final Results of Review

We determine that the following weighted-average dumping margins exist for the period October 1, 2019, through September 30, 2020.

Producer/exporter	Weighted-average dumping margin (percent)
Hyundai Steel Company	3.62
POSCO; POSCO International Corporation	1.57

Review-Specific Average Rate Applicable to the Following Companies: [11]

Exporter/producer	Average dumping margin (percent)
Dongkuk Industries Co., Ltd	2.95
Dongkuk Steel Mill Co., Ltd	2.95
KG Dongbu Steel Co., Ltd	2.95
Marubeni-Itochu Steel Korea, Ltd	2.95
Snp Ltd	2.95
Soon Hong Trading Co	2.95
Sungjin Co., Ltd	2.95

Disclosure

We intend to disclose the calculations performed in connection with these final results to parties in this proceeding within five days after public announcement of the final results or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

For Hyundai Steel and POSCO we calculated importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those sales in accordance with 19 CFR 351.212(b)(1).[12] Where an importer-specific assessment rate is *de minimis* (*i.e.,* less than 0.5 percent), the entries by that importer will be liquidated without regard to antidumping duties.

For entries of subject merchandise during the POR produced by either of the individually examined respondents for which it did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

For the companies identified above that were not selected for individual examination, we will instruct CBP to liquidate entries at the rates established in these final results of review.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

Upon publication of this notice in the **Federal Register**, the following cash deposit requirements will be effective for all shipments of hot-rolled steel entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rates for the companies subject to this review will be equal to the weighted-average dumping margin established in the final results of the review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer has been covered in a prior completed segment of this proceeding, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 6.05 percent, the all-others rate established in the less-than-fair-value investigation for this proceeding.[13] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information

[9] *See Preliminary Results* PDM at 6.

[10] *See Preliminary Results* PDM at 8.

[11] This rate was calculated by weight-averaging the margins calculated for the individually examined respondents. For more information regarding the calculation of this margin, *see* Memorandum, ''Final Results of Antidumping Duty Administrative Review of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Calculation of the Margin for Non-Examined Companies,'' dated concurrently with this notice. As the weighting factor, we relied on the publicly ranged sales data reported in the quantity and value charts submitted by Hyundai Steel and POSCO.

[12] In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

[13] *See Order,* 81 FR at 67963, 67965.

disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: February 28, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2022–04691 Filed 3–4–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Freight Rail Coupler Systems and Certain Components Thereof: Preliminary Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of freight rail coupler systems and certain components thereof (freight rail couplers) from the People's Republic of China (China) during the period of investigation January 1, 2020, through December 31, 2020. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable March 7, 2022.

FOR FURTHER INFORMATION CONTACT: Whitley Herndon or Robert Scully, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6274, or (202) 482–0572, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on October 25, 2021.[1] On December 9, 2021, Commerce postponed the preliminary determination to February 28, 2022.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.*

Scope of the Investigation

The product covered by this investigation is freight rail couplers from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] We received several comments concerning the scope of the antidumping duty (AD) and countervailing duty (CVD) investigations of freight rail couplers as it appeared in the *Initiation Notice.* On February 11, 2022, we requested additional scope comments from interested parties regarding merchandise under consideration attached to rail cars.[6] On February 22, 2022, we received comments from several interested parties; with rebuttal comments due March 1, 2022. Because these comments were submitted in close proximity to the preliminary determinations, we intend to issue our preliminary decision regarding the scope of the AD and CVD investigations after the preliminary determination of the companion AD investigation, the deadline for which is March 8, 2022.[7] We will incorporate the scope decisions from the AD investigation into the scope of the final CVD determination for this investigation after considering any relevant comments submitted in scope case and rebuttal briefs.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[8]

Commerce notes that, in making these findings, it relied on facts available and, because Commerce finds that necessary information was missing from the record and because respondents did not act to the best of their ability to respond to Commerce's requests for information, Commerce drew an adverse inference in selecting from among the facts otherwise available.[9] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

[1] *See Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 86 FR 58878 (October 25, 2021) (*Initiation Notice*).

[2] *See Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 86 FR 70113 (December 9, 2021).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[5] *See Initiation Notice,* 86 FR 58879.

[6] *See* Memorandum, ''Countervailing Duty Investigation of Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Request for Additional Scope Comments,'' dated February 11, 2022.

[7] *See Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 86 FR 58864 (October 25, 2021).

[8] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[9] *See* sections 776(a) and (b) of the Act.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

Pursuant to section 705(c)(5)(A)(ii) of the Act, if the individual estimated countervailable subsidy rates established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely on facts otherwise available, Commerce may use ''any reasonable method'' to establish the estimated subsidy rate for all-other producers or exporters. In this investigation, Commerce preliminarily determined the individually estimated subsidy rate for the individually examined respondent based entirely on facts available under section 776 of the Act. Consequently, pursuant to sections 703(d) and 705(c)(5)(A)(ii) of the Act, we established the all-others rate by applying the countervailable subsidy rate assigned to the mandatory respondent.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (*ad valorem*) (percent)
Chongqing Tongyao Transportation Equipment Co	265.99
CRRC Corporation Limited	265.99
CRRC Qiqihar Co., Ltd	265.99
China Railway Materials Group Co., Ltd	265.99
Shaanxi Haiduo Railway Technology Development Co., Ltd	265.99
All Others	265.99

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Normally, Commerce discloses its calculations and analysis performed in connection with the preliminary determination to interested parties within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied total AFA rates to the individually examined company, Chongqing Tongyao, and to the companies that did not respond to Commerce's quantity and value questionnaire, and the applied AFA rates are based on rates calculated in prior proceedings, there are no calculations to disclose.

Verification

Because the examined respondent in this investigation did not provide information requested by Commerce and Commerce preliminarily determines that the examined respondent to have been uncooperative, we will not conduct verification.

Public Comment

All interested parties will have the opportunity to submit case and rebuttal briefs on the preliminary scope determination. The deadline to submit case briefs on the preliminary scope determination will be seven days after the signature date of the preliminary scope decision memorandum. Scope rebuttal briefs (which are limited to issues raised in the scope briefs) may be submitted no later than seven days after the deadline for the scope briefs. For all scope briefs and rebuttals thereto, parties must file identical documents simultaneously on the records of the ongoing AD and CVD freight rail coupler investigations. No new factual information or business proprietary information may be included in either scope briefs or rebuttal scope briefs.

Case briefs or other written comments on non-scope matters may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 20 days after the date of publication of the preliminary determination. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[10] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Commerce has modified certain of its requirements for serving documents containing business proprietary information until further notice.[11]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, then the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of freight rail couplers from China are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act, and 19 CFR 351.205(c).

Dated: February 28, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation covers freight rail car coupler systems and certain components thereof. Freight rail car coupler systems are composed of, at minimum, four main components (knuckles, coupler bodies, coupler yokes, and follower blocks, as specified below) but may also include other items (*e.g.,* coupler locks, lock lift assemblies, knuckle pins, knuckle throwers, and rotors). The components covered by the investigation include: (1) E coupler bodies; (2) E/F coupler

[10] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

bodies; (3) F coupler bodies; (4) E yokes; (5) F yokes; (6) E knuckles; (7) F knuckles; (8) E type follower blocks; and (9) F type follower blocks, as set forth by the Association of American Railroads (AAR). The freight rail coupler components are included within the scope of the investigation when imported individually, or in some combination thereof, such as in the form of a coupler fit (a coupler body and knuckle assembled together), independent from a coupler system.

Subject freight rail car coupler systems and components are included within the scope whether finished or unfinished, whether imported individually or with other subject or non-subject components, whether assembled or unassembled, whether mounted or unmounted, or if joined with non-subject merchandise, such as other non-subject system parts or a completed rail car. Finishing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, machining, and assembly of various components. When a subject coupler system or subject components are mounted on or to other non-subject merchandise, such as a rail car, only the coupler system or subject components are covered by the scope.

The finished products covered by the scope of this investigation meet or exceed the AAR specifications of M–211, ''Foundry and Product Approval Requirements for the Manufacture of Couplers, Coupler Yokes, Knuckles, Follower Blocks, and Coupler Parts'' or AAR M–215 ''Coupling Systems,'' or other equivalent domestic or international standards (including any revisions to the standard(s)).

The country of origin for subject coupler systems and components, whether fully assembled, unfinished or finished, or attached to a rail car, is the country where the subject coupler components were cast or forged. Subject merchandise includes coupler components as defined above that have been further processed or further assembled, including those coupler components attached to a rail car in third countries. Further processing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, painting, coating, priming, machining, and assembly of various components. The inclusion, attachment, joining, or assembly of non-subject components with subject components or coupler systems either in the country of manufacture of the in-scope product or in a third country does not remove the subject components or coupler systems from the scope.

The coupler systems that are the subject of this investigation are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number 8607.30.1000. Unfinished subject merchandise may also enter under HTSUS statistical reporting number 7326.90.8688. Subject merchandise attached to finished rail cars may also enter under HTSUS statistical reporting numbers 8606.10.0000, 8606.30.0000, 8606.91.0000, 8606.92.0000, 8606.99.0130, 8606.99.0160, or under subheading 9803.00.5000 if imported as an Instrument of International Traffic. These HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2022–04692 Filed 3–4–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Civil Nuclear Trade Advisory Committee; Meeting

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of a partially closed Federal Advisory Committee meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a partially closed meeting of the Civil Nuclear Trade Advisory Committee (CINTAC).

DATES: The meeting is scheduled for Thursday, April 21, 2022, from 10:00 a.m. to 3:00 p.m. Eastern Daylight Time (EDT). The deadline for members of the public to register to participate, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EDT on Friday, April 15, 2022.

ADDRESSES: The meeting will be held virtually via Microsoft Teams. Requests to register to participate (including to speak or for auxiliary aids) and any written comments should be submitted via email to Mr. Jonathan Chesebro, Office of Energy & Environmental Industries, International Trade Administration, at *jonathan.chesebro@trade.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Chesebro, Office of Energy & Environmental Industries, International Trade Administration (Phone: 202–482–1297; email: *jonathan.chesebro@trade.gov*).

SUPPLEMENTARY INFORMATION:

Background: The CINTAC was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), in response to an identified need for consensus advice from U.S. industry to the U.S. Government regarding the development and administration of programs to expand United States exports of civil nuclear goods and services in accordance with applicable U.S. laws and regulations, including advice on how U.S. civil nuclear goods and services export policies, programs, and activities will affect the U.S. civil nuclear industry's competitiveness and ability to participate in the international market.

The Department of Commerce renewed the CINTAC charter on August 5, 2020. This meeting is being convened under the seventh charter of the CINTAC.

Topics to be considered: The agenda for the CINTAC meeting on Thursday, April 21, 2022, is as follows:

Closed Session (10:00 a.m.–1:00 p.m.)—Discussion of matters determined to be exempt from the provisions of the Federal Advisory Committee Act relating to public meetings found in 5 U.S.C. App. §§ (10)(a)(1) and 10(a)(3). The session will be closed to the public pursuant to Section 10(d) of FACA as amended by Section 5(c) of the Government in Sunshine Act, Public Law 94–409, and in accordance with Section 552b(c)(4) and Section 552b(c)(9)(B) of Title 5, United States Code, which authorize closure of meetings that are ''likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential'' and ''likely to significantly frustrate implementation of a proposed agency action,'' respectively. The part of the meeting that will be closed will address (1) nuclear cooperation agreements; (2) encouraging ratification of the Convention on Supplementary Compensation for Nuclear Damage; and (3) identification of specific trade barriers impacting the U.S. civil nuclear industry.

Public Session (1:00 p.m.–3:00 p.m.)—Discuss work of the subcommittees, review of deliberative recommendations, and opportunity to hear from members of the public.

Members of the public wishing to attend the public session of the meeting must notify Mr. Chesebro at the contact information above by 5:00 p.m. EDT on Friday, April 15, 2022 in order to pre-register to participate. Please specify any requests for reasonable accommodation at least five business days in advance of the meeting. Last minute requests will be accepted but may not be possible to fill. A limited

amount of time will be available for brief oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of 30 minutes. Individuals wishing to reserve speaking time during the meeting must contact Mr. Chesebro and submit a brief statement of the general nature of the comments and the name and address of the proposed participant by 5:00 p.m. EDT on Friday, April 15, 2022. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers.

Any member of the public may submit written comments concerning the CINTAC's affairs at any time before or after the meeting. Comments may be submitted to Mr. Jonathan Chesebro at *Jonathan.chesebro@trade.gov.* For consideration during the meeting, and to ensure transmission to the Committee prior to the meeting, comments must be received no later than 5:00 p.m. EDT on Friday, April 15, 2022. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of CINTAC meeting minutes will be available within 90 days of the meeting.

Dated: February 25, 2022.

Man K. Cho,

Deputy Director, Office of Energy and Environmental Industries.

[FR Doc. 2022–04664 Filed 3–4–22; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Civil Nuclear Trade Advisory Committee; Meeting

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and proposed topics for a meeting of the Civil Nuclear Trade Advisory Committee (CINTAC).

DATES: The meeting is scheduled for Wednesday, March 23, 2022 from 11:00 a.m. to 12:00 p.m. Eastern Daylight Time (EDT). The deadline for members of the public to register to participate, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EDT on Friday, March 18, 2022.

ADDRESSES: The meeting will be held virtually via Microsoft Teams. Requests to register to participate (including to speak or for auxiliary aids) and any written comments should be submitted via email to Mr. Jonathan Chesebro, Office of Energy & Environmental Industries, International Trade Administration, at *jonathan.chesebro@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Chesebro, Office of Energy & Environmental Industries, International Trade Administration (Phone: 202–482–1297; email: *jonathan.chesebro@trade.gov*).

SUPPLEMENTARY INFORMATION:

Background: The CINTAC was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), in response to an identified need for consensus advice from U.S. industry to the U.S. Government regarding the development and administration of programs to expand United States exports of civil nuclear goods and services in accordance with applicable U.S. laws and regulations, including advice on how U.S. civil nuclear goods and services export policies, programs, and activities will affect the U.S. civil nuclear industry's competitiveness and ability to participate in the international market.

The Department of Commerce renewed the CINTAC charter on August 5, 2020. This meeting is being convened under the seventh charter of the CINTAC.

On March 23, 2022 the CINTAC will hold the eighth meeting of its current charter term. The Committee, with officials from the U.S. Department of Commerce and other agencies, will discuss major issues affecting the competitiveness of the U.S. civil nuclear energy industry and discuss a proposed recommendation on civil nuclear financing. An agenda will be made available by March 18, 2022 upon request to Mr. Jonathan Chesebro.

Members of the public wishing to attend the public session of the meeting must notify Mr. Chesebro at the contact information above by 5:00 p.m. EDT on Friday, March 18, 2022 in order to pre-register to participate. Please specify any requests for reasonable accommodation at least five business days in advance of the meeting. Last minute requests will be accepted but may not be possible to fill. A limited amount of time will be available for brief oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of 30 minutes. Individuals wishing to reserve speaking time during the meeting must contact Mr. Chesebro and submit a brief statement of the general nature of the comments and the name and address of the proposed participant by 5:00 p.m. EDT on Friday, March 18, 2022. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers.

Any member of the public may submit written comments concerning the CINTAC's affairs at any time before or after the meeting. Comments may be submitted to Mr. Jonathan Chesebro at *Jonathan.chesebro@trade.gov.* For consideration during the meeting, and to ensure transmission to the Committee prior to the meeting, comments must be received no later than 5:00 p.m. EDT on Friday, March 18, 2022. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of CINTAC meeting minutes will be available within 90 days of the meeting.

Dated: February 25, 2022.

Man K. Cho,

Deputy Director, Office of Energy and Environmental Industries.

[FR Doc. 2022–04663 Filed 3–4–22; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Partner Probabilistic Snowfall Messaging Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to

comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on October 28, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration, Department of Commerce.

Title: Partner Probabilistic Snowfall Messaging Survey.

OMB Control Number: 0648–XXXX.

Form Number(s): None.

Type of Request: Regular submission new information collection.

Number of Respondents: 7,600.

Average Hours per Response: 0.25 hours or 15 minutes.

Total Annual Burden Hours: 1,900 hours.

Needs and Uses: For decades, the National Weather Service (NWS) has provided deterministic (*i.e.,* single-value) snowfall forecasts or snowfall uncertainty forecasts with set, narrow ranges (*i.e.,* 2–4, 4–6 inches). More recent advancements in model ensembles have allowed for the calculation of probabilistic snowfall information. This forecast information can be messaged in a number of ways, for example, as the probability a location will receive some amount of snowfall, or as the probability the snowfall will be within a certain range. While statistically more accurate, it is unknown if probabilistic snowfall forecasts are understood or helpful to the end user in their decision making process.

The NWS and National Center for Atmospheric Research will work together to conduct a survey across the NWS Central Region to determine different core partners' needs, preferences, understanding, and usefulness regarding probabilistic snow forecasts. Core partners of interest for this effort are emergency managers, school officials, and transportation officials. The survey will be hosted as a web-based survey through QuestionPro and will be electronically distributed to core partners by local NWS forecast offices across the Central Region in early 2022.

Results from this survey will be used to determine how probabilistic snowfall information will be used in future NWS products and services with the ultimate goal of providing information in a way that improves core partners' ability to make informed decisions for the protection of life and property.

Affected Public: Local (city or county), state, tribal, federal, and college/university emergency managers, local school principals, superintendents, transportation directors, and maintenance officials, and city, regional, or state transportation officials.

Frequency: Up to once per year for the approved period.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering the title of the collection.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–04746 Filed 3–4–22; 8:45 am]

BILLING CODE 3510–KE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB501]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Construction of the Ocean Wind 1 Wind Energy Facility Offshore of New Jersey

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from Ocean Wind, LLC (Ocean Wind), a subsidiary of Orsted Wind Power North America, LLC's (Orsted), for authorization to take small numbers of marine mammals incidental to construction activities associated with the Ocean Wind 1 wind energy facility in the Bureau of Ocean Energy Management's (BOEM) Lease Area Outer Continental Shelf (OCS)–A–0498 Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf off of New Jersey over the course of 5 years beginning in 2023. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of Ocean Wind's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on Ocean Wind's application and request.

DATES: Comments and information must be received no later than April 6, 2022.

ADDRESSES: Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be sent to *ITP.Potlock@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Kelsey Potlock, Office of Protected Resources, NMFS, (301) 427–8401. An electronic copy of Ocean Wind's application may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.* In case of problems accessing these documents, please email the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing)

within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On October 1, 2021, NMFS received an application from Ocean Wind requesting authorization for take of marine mammals incidental to construction activities related to the development of the Ocean Wind 1 Offshore Wind Farm off of New Jersey in Commercial Lease (OCS–A–0498). In response to our comments, and following extensive information exchange with NMFS, Ocean Wind submitted a revised application on February 8, 2022 that we determined was adequate and complete on February 11, 2022. Ocean Wind requested the regulations and subsequent Letter of Authorization (LOA) be valid for five years beginning in 2023.

Ocean Wind considered the following activities associated with wind farm construction in its application: Impact installation of monopiles for wind turbine generators (WTG) foundations; impact installation of monopiles or pin piles for offshore sub-station (OSS) foundations; potential detonations of unexploded ordinances UXOs; construction of temporary cofferdams at the sea-to-shore transitions, which includes vibratory installation and removal of sheet pile; site characterization surveys using a range of frequencies; fisheries monitoring; placement of scour protection; and export cable trenching, laying, and burial. Vessels will be used to transport crew, supplies, and materials to the Project area and to support pile installation. A subset of these activities (*e.g.,* installing piles using pile driving, UXO detonation, and site characterization surveys) may result in the take, by Level A harassment and Level B harassment, of marine mammals. Therefore, Ocean Wind requests authorization to incidentally take marine mammals.

Specified Activities

In Executive Order 14008, President Biden stated that it is the policy of the United States to organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves our lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure.

Through a competitive leasing process under 30 CFR 585.211, Ocean Wind was awarded Commercial Lease OCS–A 0498 offshore of New Jersey and the exclusive right to submit a construction and operations plan (COP) for activities within the lease area. Ocean Wind, LLC has submitted a COP to BOEM proposing the construction, operation, maintenance, and conceptual decommissioning of the Ocean Wind 1 project, a 1,100-megawatt (MW) commercial-scale offshore wind energy facility located within the northeastern portion of Lease Area OCS–A 0498 and consisting of up to 98 wind turbines, 3 offshore sub-stations, and 3 transmission cables to shore.

Ocean Wind anticipates activities potentially resulting in take of marine mammals could occur for the life of the requested regulations and LOA. This includes:

- Several construction-related high-resolution site assessment geophysical surveys in all 5 years (88 days per year during Years 1, 4, and 5; 180 days per year during Years 2 and 3);
- the installation of up to 98 tapered (*i.e.,* one end has a larger diameter than the other end) WTGs (monopile foundation; 8/11-meter (m) diameter piles) by impact pile driving;
- the installation of up to 3 OSSs foundations by impact pile driving consisting of either 3 monopiles (8/11-m diameter tapered piles) or 48 pin piles (jacket; 2.44-m diameter piles) from May through December in Years 1 and 2 over the course of 56 to 116 days;
- the installation and removal of up to 7 temporary cofferdams by vibratory pile driving at the cable tie-in area in Year 1 (4 days for installation and removal per cofferdam; 28 days total); and,
- the potential detonation of up to 10 UXOs over the course of 10 days in Year 1 (1 UXO detonation per day, as necessary).

Ocean Wind has noted that these are the most accurate estimates for the durations of each planned activity, but that the schedule may shift over the Project due to weather, mechanical, or other related delays.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning Ocean Wind's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by Ocean Wind, if appropriate.

Dated: March 1, 2022.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–04661 Filed 3–4–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB858]

Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public workshops.

SUMMARY: Free Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops will be held in April, May,

and June of 2022. Certain fishermen and shark dealers are required to attend a workshop to meet regulatory requirements and to maintain valid permits. Specifically, the Atlantic Shark Identification Workshop is mandatory for all federally permitted Atlantic shark dealers. The Safe Handling, Release, and Identification Workshop is mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and who have also been issued shark or swordfish limited access permits. Additional free workshops will be conducted later in 2022 and will be announced in a future notice. In addition, NMFS has implemented online recertification workshops for persons who have already taken an in-person training. Information about the online workshops can be found on the Atlantic Highly Migratory Species Management Division's website (see **SUPPLEMENTARY INFORMATION**).

DATES: The Atlantic Shark Identification Workshops will be held on April 21, 2022 and June 2, 2022. The Safe Handling, Release, and Identification Workshops will be held on April 14, May 19, and June 23, 2022. See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: The Atlantic Shark Identification Workshops will be held in Wilmington, NC, and Ronkonkoma, NY. The Safe Handling, Release, and Identification Workshops will be held in Manahawkin, NJ; Panama City, FL; and Warwick, RI. See **SUPPLEMENTARY INFORMATION** for further details on workshop locations.

FOR FURTHER INFORMATION CONTACT: Craig Cockrell by email at *craig.cockrell@noaa.gov* or by phone at 301–427–8503.

SUPPLEMENTARY INFORMATION: Atlantic highly migratory species (HMS) fisheries are managed under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan and its amendments are implemented by regulations at 50 CFR part 635. Section 635.8 describes the requirements for the Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops. The workshop schedules, registration information, and a list of frequently asked questions regarding the Atlantic Shark Identification and Safe Handling, Release, and Identification workshops are posted online at: *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-shark-identification-workshops* and *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/safe-handling-release-and-identification-workshops.*

Atlantic Shark Identification Workshops

Since January 1, 2008, Atlantic shark dealers have been prohibited from receiving, purchasing, trading, or bartering for Atlantic sharks unless a valid Atlantic Shark Identification Workshop certificate is on the premises of each business listed under the shark dealer permit that first receives Atlantic sharks (71 FR 58057; October 2, 2006). Dealers who attend and successfully complete a workshop are issued a certificate for each place of business that is permitted to receive sharks. These certificate(s) are valid for 3 years. Thus, certificates that were initially issued in 2019 will expire in 2022. Approximately 191 free Atlantic Shark Identification Workshops have been conducted since October 2008.

Currently, permitted dealers may send a proxy to an Atlantic Shark Identification Workshop. However, if a dealer opts to send a proxy, the dealer must designate a proxy for each place of business covered by the dealer's permit that first receives Atlantic sharks. Only one certificate will be issued to each proxy. A proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and who fills out dealer reports. Atlantic shark dealers are prohibited from renewing a Federal shark dealer permit unless a valid Atlantic Shark Identification Workshop certificate for each business location that first receives Atlantic sharks has been submitted with the permit renewal application. Additionally, a copy of a valid dealer or proxy Atlantic Shark Identification Workshop certificate must be in any trucks or other conveyances that are extensions of a dealer's place of business.

Workshop Dates, Times, and Locations

1. April 21, 2022, 12 p.m.–4 p.m., Hampton Inn, 124 Old Eastwood Rd., Wilmington, NC 28403.

2. June 2, 2022, 12 p.m.–4 p.m., Hilton Garden Inn Islip MacArthur Airport, 3485 Veterans Memorial Highway, Ronkonkoma, NY 11779.

Registration

To register for a scheduled Atlantic Shark Identification Workshop, please contact Eric Sander at *ericssharkguide@yahoo.com* or at (386) 852–8588. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items to the workshop:

- Atlantic shark dealer permit holders must bring proof that the attendee is an owner or agent of the business (such as articles of incorporation), a copy of the applicable permit, and proof of identification.
- Atlantic shark dealer proxies must bring documentation from the permitted dealer acknowledging that the proxy is attending the workshop on behalf of the permitted Atlantic shark dealer for a specific business location, a copy of the appropriate valid permit, and proof of identification.

Workshop Objectives

The Atlantic Shark Identification Workshops are designed to reduce the number of unknown and improperly identified sharks reported in the dealer reporting form and increase the accuracy of species-specific dealer-reported information. Reducing the number of unknown and improperly identified sharks will improve quota monitoring and the data used in stock assessments. These workshops will train shark dealer permit holders or their proxies to properly identify Atlantic shark carcasses.

Safe Handling, Release, and Identification Workshops

Since January 1, 2007, shark limited-access and swordfish limited-access permit holders who fish with longline or gillnet gear have been required to submit a copy of their Safe Handling, Release, and Identification Workshop certificate in order to renew either permit (71 FR 58057; October 2, 2006). These certificate(s) are valid for 3 years. Certificates issued in 2019 will expire in 2022. As such, vessel owners who have not already attended a workshop and received a NMFS certificate, or vessel owners whose certificate(s) will expire prior to the next permit renewal, must attend a workshop to fish with, or renew, their swordfish and shark limited-access permits. Additionally, new shark and swordfish limited-access permit applicants who intend to fish with longline or gillnet gear must attend a Safe Handling, Release, and Identification Workshop and submit a copy of their workshop certificate before either of the permits will be issued. Approximately 391 free Safe Handling,

Release, and Identification Workshops have been conducted since 2006.

In addition to vessel owners, at least one operator on board vessels issued a limited-access swordfish or shark permit that uses longline or gillnet gear is required to attend a Safe Handling, Release, and Identification Workshop and receive a certificate. Vessels that have been issued a limited-access swordfish or shark permit and that use longline or gillnet gear may not fish unless both the vessel owner and operator have valid workshop certificates onboard at all times. Vessel operators who have not already attended a workshop and received a NMFS certificate, or vessel operators whose certificate(s) will expire prior to their next fishing trip, must attend a workshop to operate a vessel with swordfish and shark limited-access permits on which longline or gillnet gear is used.

Workshop Dates, Times, and Locations

1. April 14, 2022, 9 a.m.–5 p.m., The Mainland Holiday Inn, 151 Rt. 72 East, Manahawkin, NJ 08050.

2. May 19, 2022, 9 a.m.–5 p.m., Hilton Garden Inn, 1101 US–231, Panama City, FL 32405.

3. June 23, 2022, 9 a.m.–5 p.m., Hilton Garden Inn, 1 Thurber Street, Warwick, RI 02886.

Registration

To register for a scheduled Safe Handling, Release, and Identification Workshop, please contact Angler Conservation Education at (386) 682–0158. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items with them to the workshop:

- Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy of the vessel registration or documentation, and proof of identification;
- Representatives of a business-owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification; and
- Vessel operators must bring proof of identification.

Workshop Objectives

The Safe Handling, Release, and Identification Workshops are designed to teach longline and gillnet fishermen the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, smalltooth sawfish, Atlantic sturgeon, and prohibited sharks. In an effort to improve reporting, the proper identification of protected species and prohibited sharks will also be taught at these workshops. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal of these workshops is to provide participants with the skills needed to reduce the mortality of protected species and prohibited sharks, which may prevent additional regulations on these fisheries in the future.

Online Recertification Workshops

NMFS implemented an online option for shark dealers and longline and gillnet fishermen to renew their certificates in December 2021. To be eligible for online recertification workshops, dealers and fishermen need to have previously attended an in-person workshop. Information about the courses is available online at *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-shark-identification-workshops* and *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/safe-handling-release-and-identification-workshops.* To access the course please visit: *https://hmsworkshop.fisheries.noaa.gov/start.*

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: March 2, 2022.

Ngagne Jafnar Gueye,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–04750 Filed 3–4–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0031]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Program for International Student Assessment 2022 (PISA 2022) Main Study

AGENCY: Institute of Educational Science (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before April 6, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Clarady, 202–245–6347.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Program for International Student Assessment 2022 (PISA 2022) Main Study.

OMB Control Number: 1850–0755.

Type of Review: A revision of a currently approved information collection.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 11,728.

Total Estimated Number of Annual Burden Hours: 5,691.

Abstract: The Program for International Student Assessments (PISA) is an international assessment of 15-year-olds, which focuses on assessing students' reading, mathematics, and science literacy. PISA was first administered in 2000 and is typically conducted every three years. The United States has participated in all of the previous cycles and planned to participate in 2021 in order to track trends and to compare the performance of U.S. students with that of students in other education systems. PISA is sponsored by the Organization for Economic Cooperation and Development (OECD). In the United States, PISA is conducted by the National Center for Education Statistics (NCES), within the U.S. Department of Education. In each administration of PISA, one of the subject areas (reading, mathematics, or science literacy) is the major domain and has the broadest content coverage, while the other two subjects are the minor domains. PISA emphasizes functional skills that students have acquired as they near the end of mandatory schooling (aged 15 years), and students' knowledge and skills gained both in and out of school environments. The next administration of PISA will focus on mathematics literacy as the major domain. Reading and science literacy will also be assessed as minor domains, with additional assessment of financial literacy. In addition to the cognitive assessments described above, PISA 2022 will include questionnaires administered to school principals and assessed students. To prepare for the main study, PISA countries will conduct a field test in the spring of the year previous, primarily to evaluate newly developed assessment and questionnaire items but also to test the assessment operations. The request to conduct PISA 2021 main study recruitment and field test was approved in December 2019 (OMB# 1850–0755 v.23–24). This request: (1) Updates the package to reflect all of the changes made to respond to the global coronavirus pandemic, including delaying the field test that was previously scheduled for 2020 to 2021 and the main study data collection to 2022; (2) updates the field test recruitment materials and student video; (3) adds COVID–19 protocols; (4) replaces the state, district and school letters for the 2021 field test and 2022 main study; and (5) adds coronavirus pandemic-related items in the school and student questionnaires.

Dated: March 2, 2022.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–04743 Filed 3–4–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—Early Childhood Systems Technical Assistance Center

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2022 for an Early Childhood Systems Technical Assistance Center, Assistance Listing Number 84.326P. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: March 7, 2022.

Deadline for Transmittal of Applications: May 6, 2022.

Deadline for Intergovernmental Review: July 5, 2022.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 27, 2021 (86 FR 73264) and available at *www.federalregister.gov/d/2021-27979.* Please note that these Common Instructions supersede the version published on February 13, 2019, and, in part, describe the transition from the requirement to register in *SAM.gov* a Data Universal Numbering System (DUNS) number to the implementation of the Unique Entity Identifier (UEI). More information on the phase-out of DUNS numbers is available at *www2.ed.gov/about/offices/list/ofo/docs/unique-entity-identifier-transition-fact-sheet.pdf.*

FOR FURTHER INFORMATION CONTACT: Julia Martin Eile, U.S. Department of Education, 400 Maryland Avenue SW, Room 5146, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–7431. Email: *Julia.Martin.Eile@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.

Priority: This competition includes one absolute priority. In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 663 and 681(d) of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1463 and 1481(d)).

Absolute Priority: For FY 2022 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Early Childhood Systems Technical Assistance Center.

Background:

Improving educational outcomes for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities. Infants, toddlers, and preschool children (young children) with disabilities and their families need equitable learning opportunities that help them achieve their full potential as engaged learners and contributing members of society. Enhancing equity for young children with disabilities requires early childhood systems that support equitable identification for IDEA services and equitable access to high-quality, inclusive early childhood programs, and evidence-based [1] and

[1] For the purposes of this priority, ''evidence-based practices'' means practices that, at a minimum, demonstrate a rationale (as defined in 34 CFR 77.1), where a key project component included in the project's logic model is informed by research

culturally and linguistically responsive interventions that are individualized and appropriate to support them in meeting high expectations.

Enhancing equity for all young children with disabilities requires that State IDEA Part C and Part B, section 619 programs have equitable and effective systems [2] in place so that all young children with disabilities and their families are identified at the earliest opportunity and receive the services and supports that they need in a timely manner and to which they are entitled. Recent IDEA section 618 (20 U.S.C. 1418) child count data from State IDEA Part C and Part B, section 619 programs indicate that these systems are not being implemented as effectively or equitably as they should be. The data show that there are groups of infants and toddlers, specifically Black, Asian and American Indian or Alaska Native and preschool children, specifically Black and Asian Americans, that are less likely to receive IDEA services. The data also show that there is a wide range in the percentage of young children with disabilities served under IDEA across States.

There is not always equitable access to high-quality inclusive early childhood programs for young children with disabilities. Families of young children with disabilities report that they have difficulty finding and keeping childcare, and young children with disabilities have difficulty accessing early childhood special education services in inclusive settings. In 2019, nationally, approximately 65 percent of preschool children with disabilities participated in general early childhood programs with peers without disabilities, and only 44 percent received IDEA early childhood special education services in regular early childhood programs with their same aged peers without disabilities (U.S. Department of Education, 2020). These percentages vary greatly among States, suggesting inequities in how young children with disabilities and their families are served.

As States enhance and expand childcare and preschool, it is critical that these systems intentionally include young children with disabilities and support their full participation and success. This requires leadership from early childhood councils, such as State Advisory Councils for Early Care and Education and State Interagency Coordinating Councils and leadership from administrators within IDEA Part C, IDEA Part B, section 619, Head Start, Early Head Start, childcare, education, and home visiting programs to engage in the development and implementation of a coordinated system inclusive for all young children with disabilities and their families. State IDEA Part C and Part B, section 619 coordinators report, however, that they are not always included as partners on State leadership teams that address broader early childhood initiatives, and that other State administrators are not always aware of the needs of young children with disabilities and their families.

Effective early childhood systems must include implementation supports [3] that enable local programs and practitioners to appropriately identify young children with disabilities and implement, with fidelity, evidence-based and culturally and linguistically responsive interventions in inclusive early childhood programs and natural environments. Most States, however, have identified areas for improvement within their systems. Data from State IDEA Part C and Part B, section 619 coordinators document the need for TA to support infrastructure development, recruiting, preparing, developing, and retaining personnel, implementation of evidence-based practices at the local level, and increased stakeholder involvement (IDEA Infant and Toddler Coordinators Association (ITCA), 2021; Early Childhood Technical Assistance Center and the National Association of State Directors of Special Education, 2021).

The COVID–19 pandemic exacerbated the need for States to enhance their IDEA Part C and Part B, section 619 systems to equitably deliver services and supports to improve outcomes for young children with disabilities and their families. During the pandemic, States reported challenges, including reductions in referrals to the IDEA program for young children suspected of developmental delays, the ability to conduct timely evaluations and assessments, the provision of IDEA services remotely, a shortage of personnel and challenges to fill open positions, a lack of inclusive early learning opportunities, and families that were overwhelmed with the responsibility of being key partners in the delivery of remote services for their child. (ITCA, 2021; Barnett & Jung, 2021). As in-person services and early childhood programs have resumed, States continue to identify concerns with being able to provide equitable services and supports for young children with disabilities and their families (ITCA, 2021; Early Childhood Technical Assistance Center and the National Association of State Directors of Special Education, 2021).

Establishing the capacity to implement effective IDEA systems and services that reflect evidence-based and culturally and linguistically responsive practices for young children with disabilities and their families requires change to the early childhood system at multiple levels and across multiple agencies. This requires administrators that have the leadership competencies to engage families and stakeholders in decision-making and use data to develop policies and implement practices to address factors across early childhood systems that influence disparities. The majority of States struggle with sustaining high-quality leadership due to the significant turnover of State administrators in early childhood, including IDEA Part C and Part B, section 619 coordinators. TA is needed to support States in improving their early childhood systems, including increased knowledge, skills, and competencies of early childhood system administrators, to equitably and effectively promote positive outcomes for all young children with disabilities and their families.

This absolute priority will advance the Secretary's priorities in the area of promoting equity in student access to educational resources and opportunities.

Priority:

The purpose of this priority is to fund a cooperative agreement to establish and operate an Early Childhood Systems Technical Assistance Center (Center). The Center will support State and local capacity to improve and sustain equitable systems that support access by, and full participation of, young children with disabilities across early childhood programs, to provide equitable access to IDEA services, and to provide effective IDEA services that reflect evidence-based and culturally and linguistically responsive interventions to improve the outcomes of all young children with disabilities and their families. The Center must achieve, at a minimum, the following expected outcomes:

(a) Increased capacity of State and local early childhood systems, including

or evaluation findings that suggest the project component is likely to improve relevant outcomes.

[2] For the purpose of this priority, ''systems'' include governance, finance, personnel and workforce, data, accountability and quality improvement, and quality standards (The Early Childhood Technical Assistance Center, 2015).

[3] For the purpose of this priority, ''implementation supports'' include professional development and training; ongoing consultation and coaching; performance assessments; data systems to support decision making; administrative supports; and systems interventions to align policies and funding mechanisms across multiple levels of a system (Fixsen et al., 2009).

IDEA Part C and Part B, section 619, childcare, Early Head Start, Head Start, child care, publicly-funded preschool, and home visiting programs to increase equitable access by, and full participation of, young children with disabilities in high-quality, inclusive programs that enable them to achieve their full potential;

(b) Increased capacity of State IDEA Part C and Part B, section 619 programs to improve and sustain State systems, including governance, finance, personnel, data, accountability and quality improvement, and quality standards, to effectively implement IDEA regulations, ensure equitable access to IDEA services, and deliver equitable and effective IDEA services to improve outcomes for all young children with disabilities and their families;

(c) Increased capacity of State IDEA Part C and Part B, section 619 programs to include implementation supports within their State systems to support local programs and personnel in identifying all eligible young children with disabilities, particularly historically underserved children, and delivering equitable and effective IDEA services and evidence-based and culturally and linguistically responsive interventions for young children with disabilities and their families;

(d) Increased capacity of States and local early childhood IDEA programs to engage with families and other stakeholders to develop policies and implement practices to address factors that influence disparities in outcomes for young children with disabilities and their families such as timely and appropriate identification, supports and services in high quality inclusive programs, and exclusionary and inappropriate discipline practices; and

(e) Increased knowledge, skills, and competencies of early childhood system administrators, including State IDEA Part C and Part B, section 619 administrators, to lead systemic improvement efforts, analyze data on disparities in outcomes, collaborate on early childhood initiatives, engage families of children with disabilities and stakeholders in decision-making, and build more equitable, effective, and sustainable State systems that provide effective services and inclusive learning opportunities that improve outcomes for all young children with disabilities and their families.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address the current and emerging needs of State and local early childhood systems to increase equitable access by and full participation of young children with disabilities in high-quality, inclusive early childhood programs and natural environments that enable them to achieve their full potential. To meet this requirement, the applicant must—

(i) Present applicable national and State data demonstrating the needs of States and local early childhood programs to equitably increase opportunities for young children with disabilities to fully participate in and receive IDEA services in natural environments and inclusive early childhood programs;

(ii) Demonstrate knowledge of current educational issues and evidence-based policy initiatives across early childhood systems and how these impact young children with disabilities and their families; and

(iii) Demonstrate knowledge of the current capacity of State and local early childhood administrators and personnel to implement policies and practices that support access by and full participation of young children with disabilities in inclusive early childhood programs, and address factors that influence disparities in outcomes for young children with disabilities and their families;

(2) Address the current and emerging needs of State IDEA Part C and Part B, section 619 programs to implement and sustain equitable and effective systems that have the implementation supports in place to support local programs in identifying young children with disabilities and delivering effective services and interventions within natural environments and inclusive programs to improve outcomes for all young children with disabilities and their families. To meet this requirement, the applicant must—

(i) Present applicable national and State data demonstrating the needs of States to improve their systems, to implement IDEA, ensure equitable access to IDEA services, and recruit and retain personnel to deliver equitable and effective IDEA services, and implement evidence-based and culturally and linguistically responsive interventions;

(ii) Demonstrate knowledge of current educational issues and policy initiatives relating to implementing IDEA in a manner consistent with its statutory and regulatory provisions, including the Equity in IDEA regulation; ensuring equity in access to IDEA services and interventions; and increasing the capacity of State IDEA Part C and Part B, section 619 coordinators to effectively lead and be engaged in systemic improvement; and

(iii) Demonstrate knowledge of the current capacity of State IDEA Part C and Part B, section 619 administrators to implement and sustain equitable and effective systems, including the capacity of administrators and personnel to identify and address factors that influence disparities in outcomes for young children with disabilities and their families, and to support proactive strategies to prevent disproportionate identification, placement and discipline as children transition into school; and

(3) Improve early childhood systems to ensure implementation of IDEA and build capacity to support local programs and personnel to implement, scale up, and sustain equitable access to effective services and inclusive early childhood programs, and indicate the likely magnitude or importance of the improvements.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that services and products meet the needs of the intended recipients of the grant;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model[4] by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these

[4] Logic model (34 CFR 77.1) (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of evidence-based practices (EBPs). To meet this requirement, the applicant must describe—

(i) The current research on systems change, capacity building, equity-centered systems, leadership development, recruitment and retention of personnel, and inclusive policies and practices that will inform the proposed TA;

(ii) The current research about adult learning principles and implementation science that will inform the proposed TA; and

(iii) How the proposed project will incorporate current research and practices in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify or develop the knowledge base on—

(A) Supporting equity within State and local IDEA Part C and Part B, section 619 systems to include, analyzing disaggregated data and policies and practices in the system to identify disparities, and identifying indicators of quality for more equitable systems;

(B) Indicators of quality across the components (*e.g.,* governance, finance, personnel and workforce, data, accountability, quality improvement, and quality standards) of State IDEA Part C and Part B, section 619 systems and how to support the implementation of these indicators;

(C) Strategies to support recruitment and retention of personnel within State and local IDEA Part C and Part B, section 619 systems;

(D) Implementation supports needed within the early childhood system to support personnel in ensuring equitable access to IDEA services and delivering effective services and evidence-based and culturally and linguistically responsive interventions to young children with disabilities and their families;

(E) Indicators of high-quality inclusion and how to build the capacity of State advisory councils and early childhood administrators to implement policies and practices that support high-quality inclusion; and

(F) Leadership competencies of early childhood system administrators;

(ii) Its proposed approach to universal, general TA,[5] which must identify the intended recipients, including the type and number of recipients, that will receive the products and services, a description of the products and services that the Center proposes to make available and how it has assessed the need for these products and services, a plan for ensuring the intended recipients can easily access and use products and services, and the expected impact of those products and services under this approach. At minimum, the approach should include activities focused on—

(A) Identifying and developing resources and materials that increase awareness at the national level of how IDEA Part C and Part B, section 619 programs and young children with disabilities and their families can be intentionally included within broader early childhood initiatives; and

(B) Identifying and developing materials, resources, and tools to help States, local early childhood programs, providers, and families implement effective systems, policies, and practices to support positive and equitable outcomes for all young children with disabilities and their families;

(iii) Its proposed approach to targeted, specialized TA,[6] which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services, a description of the products and services that the Center proposes to make available, and the expected impact of those products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level;

(C) Its proposed approach for increasing the knowledge, skills, and competencies of State IDEA Part C and Part B, section 619 administrators, to lead systemic improvement efforts, collaborate on early childhood initiatives, engage families of young children with disabilities and stakeholders in decision-making, and build more equitable, effective, and sustainable State systems; and

(D) The process by which the proposed project will collaborate with other federally funded TA centers, including those funded by the Office of Special Education Programs (OSEP) and the Department of Health and Human Services (HHS);

(iv) Its proposed approach to intensive, sustained TA,[7] which must identify—

(A) The intended recipients, including the type and number of recipients from a variety of settings and geographic distribution, that will receive the products and services designed and the expected impact of those services under this approach;

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity within at the local level;

(C) Its proposed plan for working with appropriate levels of the State IDEA Part C and Part B, section 619 and early childhood systems (*e.g.,* Early Head Start and Head Start childcare, home visiting programs, publicly funded preschools), State advisory boards, and families of young children with disabilities to ensure that there is communication between each level and that there are systems in place to support the implementation of the project;

(D) The process by which the proposed project will collaborate with other federally funded TA centers,

[5] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's website by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[6] ''Targeted, specialized TA'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[7] ''Intensive, sustained TA'' means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

including those funded by OSEP and HHS; and

(E) The process by which the proposed project will ensure the use of effective TA practices and continuously evaluate the practices to improve the delivery of TA;

(v) How the proposed project will use non-project resources to achieve the intended project outcomes.

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes; and

(7) Develop a dissemination plan that describes how the applicant will systematically distribute information, products, and services to varied intended audiences, using a variety of dissemination strategies, to promote awareness and use of the Center's products and services.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project developed in consultation with and implemented by a third-party evaluator.[8] The evaluation plan must—

(1) Articulate formative and summative evaluation questions, including important process and outcome evaluation questions. These questions should be related to the project's proposed logic model required in paragraph (b)(2)(ii) of this notice;

(2) Describe how progress in and fidelity of implementation, as well as project outcomes will be measured to answer the evaluation questions. Specify the measures and associated instruments or sources for data appropriate to the evaluation questions. Include information regarding reliability and validity of measures where appropriate;

(3) Describe strategies for analyzing data and how data collected as part of this plan will be used to inform and improve service delivery over the course of the project and to refine the proposed logic model and evaluation plan, including subsequent data collection;

(4) Provide a timeline for conducting the evaluation, and include staff assignments for completing the plan. The timeline must indicate that the data will be available annually for the annual performance report and at the end of Year 2 for the review process described under the heading, *Fourth and Fifth Years of the Project;*

(5) Dedicate sufficient funds in each budget year to cover the costs of developing or refining the evaluation plan in consultation with a ''third-party'' evaluator, as well as the costs associated with the implementation of the evaluation plan by the third-party evaluator.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes. Specifically, demonstrate how the key project personnel have the necessary qualifications and experience in early childhood equity including, but not limited to—

(i) The intersection of race, ethnicity, and disabilities in early childhood, and the impact of race and ethnicity on the early learning experiences of young children with disabilities and their families; and

(ii) Equity-centered practices to support young children with disabilities and their families from culturally and linguistically diverse backgrounds;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, including racially, ethnically, and linguistically diverse families, early childhood educators, early intervention and early childhood special educators, administrators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one and one-half day virtual kick-off meeting after receipt of the award, and a virtual annual planning meeting in with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, during each year of the project period. The project must reallocate funds for travel to the project directors' meeting no later than the end of the third quarter of each budget period if the meeting is conducted virtually;

(iii) Four annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day virtual 3+2 review meeting during the second year of the project period;

(3) Include, in the budget, a line item for an annual set-aside of 5 percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later

[8] A ''third-party'' evaluator is an independent and impartial program evaluator who is contracted by the grantee to conduct an objective evaluation of the project. This evaluator must not have participated in the development or implementation of any project activities, except for the evaluation activities, nor have any financial interest in the outcome of the evaluation.

than the end of the third quarter of each budget period;

(4) Engage doctoral students or post-doctoral fellows in the project to increase future leaders in the field who are knowledgeable on effective State IDEA Part C and Part B, section 619 systems, implementation supports, equitable access to IDEA services, effective services and interventions to support inclusion in early childhood programs, and effective TA practices;

(5) Maintain a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility;

(6) Ensure that annual project progress toward meeting project goals is posted on the project website; and

(7) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to a new award at the end of this award period, as appropriate.

Fourth and Fifth Years of the Project: In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), including—

(a) The recommendations of a 3+2 review team consisting of experts who have experience and knowledge in providing TA at the State and local levels to improve and sustain equitable systems that support access for and full participation of young children with disabilities. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

Under 34 CFR 75.253, the Secretary may reduce continuation awards or discontinue awards in any year of the project period for excessive carryover balances or a failure to make substantial progress. The Department intends to closely monitor unobligated balances and substantial progress under this program and may reduce or discontinue funding accordingly.

References

Barnett, W.S., & Jung, K. (2021). *Seven impacts of the pandemic on young children and their parents: Initial findings from NIEER's December 2020 Preschool Learning Activities Survey* [Research report]. National Institute for Early Education Research.

Early Childhood Technical Assistance Center (2015). *A system framework for building high-quality early intervention and preschool special education programs. https://ectacenter.org/sysframe/.*

Early Childhood Technical Assistance Center and the National Association of State Directors of Special Education. (2021, February 10). Presentation to the Office of Special Education Programs [Unpublished report]. U.S. Department of Education, Office of Special Education Programs.

Fixsen, D.L., Blasé, K.A., Naoom, S.F., & Wallace, F. (2009). Core implementation components. *Research on Social Work Practices, 19*(5), 531–540.

IDEA Infant and Toddlers Coordinators Association. (2021, January 13). Presentation to the Office of Special Education Programs [Unpublished report]. U.S. Department of Education, Office of Special Education Programs.

U.S. Department of Education. (2020). ED*Facts* Data Warehouse: ''IDEA Part B Child Count and Educational Environments Collection'' and ''IDEA Part C Child Count and Settings Collection,'' 2019–20.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1463 and 1481.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: The Administration has requested $49,345,000 for the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program for FY 2022, of which we intend to use an estimated $5,400,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2023 from the list of unfunded applications from this competition.

Maximum Award: We will not make an award exceeding $5,400,000 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* State educational agencies; State lead agencies under Part C of the IDEA; local educational agencies (LEAs), including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

4. *Other General Requirements:*

(a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 27, 2021 (86 FR 73264) and available at *www.federalregister.gov/d/2021-27979.* Please note that these Common Instructions supersede the version published on February 13, 2019, and, in part, describe the transition from the requirement to register in *SAM.gov* a Data Universal Numbering System (DUNS) number to the implementation of the Unique Entity Identifier (UEI). More information on the phase-out of DUNS numbers is available at *https://www2.ed.gov/about/offices/list/ofo/docs/unique-entity-identifier-transition-fact-sheet.pdf.*

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 70 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed below:

(a) *Significance (10 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project.

(b) *Quality of project services (35 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework.

(iii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(iv) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(v) The extent to which the TA services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(c) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(iv) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce

quantitative and qualitative data to the extent possible.

(d) *Adequacy of resources and quality of project personnel (15 points).*

(1) The Secretary considers the adequacy of resources for the proposed project and the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator.

(ii) The qualifications, including relevant training and experience, of key project personnel.

(iii) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(iv) The qualifications, including relevant training, experience, and independence, of the evaluator.

(v) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(vi) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(vii) The extent to which the budget is adequate to support the proposed project.

(viii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the management plan (20 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(iv) How the applicant will ensure that a diversity of perspectives is brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions, and under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* For the purposes of Department reporting under 34 CFR 75.110, we have established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities program. These measures are:

- *Program Performance Measure #1:* The percentage of Technical Assistance and Dissemination products and services deemed to be of high quality by an independent review panel of experts qualified to review the substantive content of the products and services.
- *Program Performance Measure #2:* The percentage of Special Education Technical Assistance and Dissemination products and services deemed by an independent review panel of qualified experts to be of high relevance to educational and early intervention policy or practice.
- *Program Performance Measure #3:* The percentage of all Special Education Technical Assistance and Dissemination products and services deemed by an independent review panel of qualified experts to be useful in improving educational or early intervention policy or practice.
- *Program Performance Measure #4:* The cost efficiency of the Technical Assistance and Dissemination Program includes the percentage of milestones achieved in the current annual performance report period and the percentage of funds spent during the current fiscal year.
- *Long-term Program Performance Measure:* The percentage of States receiving Special Education Technical Assistance and Dissemination services regarding scientifically or evidence-based practices for infants, toddlers, children, and youth with disabilities that successfully promote the implementation of those practices in school districts and service agencies.

The measures apply to projects funded under this competition, and grantees are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

The Department will also closely monitor the extent to which the products and services provided by the Center meet needs identified by stakeholders and may require the Center to report on such alignment in their annual and final performance reports.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person [persons] listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have

Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Katherine Neas,

Deputy Assistant Secretary, Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2022–04699 Filed 3–4–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2022–SCC–0032]

Agency Information Collection Activities; Comment Request; Student Assistance General Provisions—Financial Assistance for Students With Intellectual Disabilities

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before May 6, 2022.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0032. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Assistance General Provisions—Financial Assistance for Students With Intellectual Disabilities.

OMB Control Number: 1845–0099.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 712.

Total Estimated Number of Annual Burden Hours: 217.

Abstract: As provided by the Higher Education Act of 1965, as amended, (HEA) these regulations allow students with intellectual disabilities, who enroll in an eligible comprehensive transition program to receive Title IV, HEA program assistance under the Federal Pell Grant, the Federal Supplemental Educational Opportunity Grant (FSEOG), and the Federal Work Study (FWS) programs. This request is for a extension of the current recordkeeping requirements contained in the regulations at 34 CFR 668.232 and 668.233, related to the administrative requirement of the financial assistance for students with intellectual disabilities program. The information collection requirements are necessary to determine the eligibility to receive program benefits and to prevent fraud and abuse of the program funds.

Dated: March 2, 2022.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–04753 Filed 3–4–22; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

EAC Progress Report; Survey and Submission to OMB of Proposed Collection of Information

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice; request for comment.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the U.S. Election Assistance Commission (EAC) gives notice that it is requesting from the Office of Management and Budget (OMB) approval for the information collection EAC Progress Report (EAC–PR).

DATES: Comments should be submitted by 5 p.m. EST on Friday, April 8, 2022.

ADDRESSES: To view the proposed EAC–PR format and instrument, see: *https://www.eac.gov/payments-and-grants/reporting.* For information on the EAC–PR, contact Kinza Ghaznavi, Office of Grants, Election Assistance Commission, *Grants@eac.gov.* All requests and submissions should be identified by the title of the information collection.

Written comments and recommendations for the proposed information collection should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: EAC Progress Report; 86 FR 73747 (Page 73747–73748, Document Number: 2021–28199)

Purpose

This proposed information collection was previously published in the **Federal Register** on December 28, 2021 and allowed 60 days for public comment. In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act (PRA) of 1995, EAC has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. The purpose of this notice is to allow an additional 30 days for public comment from all interested individuals and organizations.

The EAC Office of Grants Management (EAC/OGM) is responsible for distributing, monitoring and providing technical assistance to states and grantees on the use of federal funds. EAC/OGM also reports on how the funds are spent to Congress, negotiates indirect cost rates with grantees, and resolves audit findings on the use of HAVA funds.

The EAC Progress Report has been developed for both interim and final progress reports for grants issued under HAVA authority. This revised format builds upon that report for the various grant awards given by EAC and provides terminology clarification. The Progress Report will directly benefit award recipients by making it easier for them to administer federal grant and cooperative agreement programs through standardization of the types of information required in progress reports—thereby reducing their administrative effort and costs.

Public Comments

We are soliciting public comments to permit the EAC to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Office of Grants Management.
- Evaluate the accuracy of our estimate of burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review. OMB approval is requested for 3 years.

Respondents: All EAC grantees.

Annual Reporting Burden

ANNUAL BURDEN ESTIMATES

EAC grant	Instrument	Total number of respondents	Total number of responses per year	Average burden hours per response	Annual burden hours
251	EAC–PNR	35	2	1	70
101	EAC–PNR	20	2	1	40
Election Security	EAC–PNR	56	2	1	112
CARES	EAC–PNR	15	2	1	30
Total					252

The estimated cost of the annualized cost of this burden is: $5,727.96, which is calculated by taking the annualized burden (252 hours) and multiplying by an hourly rate of $22.73 (GS–8/Step 5 hourly basic rate).

Amanda Joiner,

Acting General Counsel, U.S. Election Assistance Commission.

[FR Doc. 2022–04724 Filed 3–4–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Amended Record of Decision for the Long-Term Management and Storage of Elemental Mercury

AGENCY: Office of Environmental Management, U.S. Department of Energy.

ACTION: Amended record of decision.

SUMMARY: The U.S. Department of Energy (DOE) is issuing this Amended Record of Decision (AROD) to amend its previous AROD for the long-term management and storage of elemental mercury published in the **Federal Register** on October 6, 2020. This AROD withdraws the decision to store at Waste Control Specialists (WCS) certain elemental mercury to which DOE accepts the conveyance of title pursuant to a legal settlement or proceeding.

ADDRESSES: For electronic copies of this Amended Record of Decision, the October 6, 2020, Amended Record of Decision, the December 6, 2019, Record of Decision, or any of the documents prepared under the National Environmental Policy Act (NEPA) related to long-term management and storage of elemental mercury, please go to the following website: *https://www.energy.gov/nepa/nepa-documents.* For paper copies, please contact Dave Haught at DOE, Office of Environmental Management, Office of Waste Disposal (EM–4.22), 1000 Independence Avenue SW, Washington, DC 20585 or at *David.Haught@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: For further information on the management and storage of elemental mercury, please contact Dave Haught at *David.Haught@hq.doe.gov* or visit *https://www.energy.gov/em/long-term-management-and-storage-elemental-mercury.* For general information on the Office of Environmental Management's NEPA process, please contact Bill Ostrum, at *William.Ostrum@hq.doe.gov* and at (202) 586–2513.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Section 5(a)(1)–(2) of the Mercury Export Ban Act of 2008 (Pub. L. 110–414), and the Frank R. Lautenberg Chemical Safety for the 21st Century Act, (Pub. L. 114–182) (herein together referred to as MEBA) (42 U.S.C. 6939f(a)(1)–(2)), the U.S. Department of Energy (DOE) was directed to designate and have operational a facility or facilities of DOE for the long-term management and storage of elemental mercury generated within the United States. On December 6, 2019, DOE published a record of decision (ROD) in the **Federal Register** (84 FR 66890) announcing DOE's decision to designate the Waste Control Specialists (WCS) site near Andrews, Texas, as a DOE facility

for management and storage of up to 6,800 metric tons (7,480 tons) of elemental mercury pursuant to Section 5(a)(1) of MEBA. Two domestic generators of elemental mercury subsequently filed complaints in United States District Court challenging, among other things, the ROD designating the WCS site as a DOE facility for the long-term management and storage of elemental mercury (*Coeur Rochester, Inc.* v. *Brouillette et al.,* Case No. 1:19–cv–03860–RJL (D.D.C. filed December 31, 2019); *Nevada Gold Mines LLC* v. *Brouillette et al.,* Case No. 1:20–cv–00141–RJL (D.D.C. filed January 17, 2020)). On August 21, 2020, DOE and Nevada Gold Mines, LLC (NGM) executed a settlement agreement intended to resolve NGM's complaint in its entirety. Under the settlement agreement with NGM, DOE agreed to withdraw the designation of WCS as a facility of DOE for the purpose of long-term management and storage of elemental mercury, and DOE agreed to accept title to and store 112 metric tons of elemental mercury that is currently in temporary storage at NGM facilities. On October 6, 2020, DOE published an AROD in the **Federal Register** (85 FR 63105) withdrawing the designation of the WCS site pursuant to MEBA as the DOE facility for long-term management and storage of elemental mercury. In that October 6, 2020, AROD, DOE also decided to store at WCS certain elemental mercury to which DOE accepts the conveyance of title pursuant to a legal settlement or proceeding. DOE did not store mercury at WCS as a result of the AROD and is not currently storing any mercury at the WCS site. The lease agreement between DOE and WCS for management and storage of elemental mercury expired on June 4, 2021.

On May 24, 2021, DOE published in the **Federal Register** (86 FR 27838) a notice of intent to prepare a second Long-Term Management and Storage of Elemental Mercury Supplemental Environmental Impact Statement (Mercury Storage SEIS–II, DOE/EIS–0423–S2). This Mercury Storage SEIS–II would supplement both the 2011 Environmental Impact Statement for the Long-Term Management and Storage of Elemental Mercury (DOE/EIS–0423) and the 2013 Supplemental Environmental Impact Statement for the Long-Term Management and Storage of Elemental Mercury (DOE/EIS–0423–S1) by updating these previous analyses of potential environmental impacts and analyzing additional alternatives, in accordance with the National Environmental Policy Act (NEPA), and will inform DOE's decision related to designation of a facility or facilities for the long-term management and storage of elemental mercury as required in MEBA Section 5(a)(1).

To address the elemental mercury subject to the settlement agreement, on February 4, 2022, DOE issued a Request for Task Order Proposals seeking proposals to provide ancillary services for the interim long-term management and storage of up to 120 MT of elemental mercury. DOE will evaluate received proposals to determine how to proceed with the interim long-term management and storage of the elemental mercury for which DOE accepts title prior to designation of a long-term elemental mercury storage facility.

Amended Decision

This AROD rescinds DOE's decision in the October 6, 2020, AROD to store at WCS certain elemental mercury to which DOE accepts the conveyance of title pursuant to a legal settlement or proceeding.

Signing Authority

This document of the U.S. Department of Energy was signed on March 1, 2022, by William I. White, Senior Advisor for Environmental Management, Office of Environmental Management, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with the requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the U.S. Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 2, 2022.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2022–04775 Filed 3–4–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: In this notice, the U.S. Department of Energy (DOE) is forecasting the representative average unit costs of five residential energy sources for the year 2022 pursuant to the Energy Policy and Conservation Act (Act). The five sources are electricity, natural gas, No. 2 heating oil, propane, and kerosene.

DATES: The representative average unit costs of energy contained in this notice will become effective April 6, 2022 and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT:

Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121, (202) 287–1692, *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Francine Pinto, U.S. Department of Energy, Office of General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0103, (202) 586–2588, *Francine.Pinto@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act requires that DOE prescribe test procedures for the measurement of the estimated annual operating costs or other measures of energy consumption for certain consumer products specified in the Act. (42 U.S.C. 6293(b)(3)) These test procedures are found in Title 10 of the Code of Federal Regulations (CFR) part 430, subpart B.

Section 323(b)(3) of the Act requires that the estimated annual operating costs of a covered product be calculated from measurements of energy use in a representative average use cycle or period of use and from representative average unit costs of the energy needed to operate such product during such cycle. (42 U.S.C. 6293(b)(3)) The section further requires that DOE provide information to manufacturers regarding the representative average unit costs of energy. (42 U.S.C. 6293(b)(4)) This cost information should be used by manufacturers to meet their obligations under section 323(c) of the Act. Most notably, these costs are used to comply with Federal Trade Commission (FTC) requirements for labeling. Manufacturers are required to use the revised DOE representative average unit costs when the FTC publishes new ranges of comparability for specific covered products, 16 CFR part 305. Interested parties can also find information covering the FTC labeling requirements at *https://www.ftc.gov/appliances.*

DOE last published representative average unit costs of residential energy

in a **Federal Register** notice entitled, ''Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy'', dated August 25, 2021, 86 FR 47482.

On April 6, 2022, the cost figures published in this notice will become effective and supersede those cost figures published on August 25, 2021. The cost figures set forth in this notice will be effective until further notice.

DOE's Energy Information Administration (EIA) has developed the 2022 representative average unit after-tax residential costs found in this notice. These costs for electricity, natural gas, No. 2 heating oil, and propane are based on simulations used to produce the February 2022, EIA *Short-Term Energy Outlook* (EIA releases the *Outlook* monthly). The representative average unit after-tax cost for kerosene is derived from its price relative to that of heating oil, based on the 2010 to 2013 averages of the U.S. refiner price to end users, which include all the major energy-consuming sectors in the U.S. for these fuels. The source for these price data is the January 2022, *Monthly Energy Review* DOE/EIA–0035(2022/1). The representative average unit after-tax cost for propane is derived from its price relative to that of heating oil, based on the 2021 averages of the U.S. residential sector prices found in the *Annual Energy Outlook 2021,* AEO2021) (February 3, 2021). The *Short-Term Energy Outlook,* the *Monthly Energy Review,* and the *Annual Energy Outlook* are available on the EIA website at *https://www.eia.doe.gov.* For more information on the data sources used in this Notice, contact the National Energy Information Center, Forrestal Building, EI–30, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–8800, email: *infoctr@eia.doe.gov.*

The 2022 representative average unit costs under section 323(b)(4) of the Act are set forth in Table 1, and will become effective April 6, 2022. They will remain in effect until further notice.

Signing Authority

This document of the Department of Energy was signed on March 1, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 2, 2022.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

TABLE 1—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES

[2022]

Type of energy	Per million Btu [1]	In commonly used terms	As required by test procedure
Electricity	$41.79	14.26¢/kWh [2] [3]	$0.143/kWh.
Natural Gas	12.09	$1.209/therm [4] or $12.56/MCF [5] [6].	$0.00001209/Btu.
No. 2 Heating Oil	25.11	$3.45/gallon [7]	$0.00002511/Btu.
Propane	24.46	$2.23/gallon [8]	$0.00002446/Btu.
Kerosene	29.73	$4.01/gallon [9]	$0.00002973/Btu.

Sources: U.S. Energy Information Administration, *Short-Term Energy Outlook* (February 8, 2022), *Annual Energy Outlook* (February 3, 2021), and *Monthly Energy Review* (January 27, 2022).

Notes: Prices include taxes.

[1] Btu stands for British thermal units.

[2] kWh stands for kilowatt hour.

[3] 1 kWh = 3,412 Btu.

[4] 1 therm = 100,000 Btu.

[5] MCF stands for 1,000 cubic feet.

[6] For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,039 Btu.

[7] For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 13,738 Btu.

[8] For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,333 Btu.

[9] For the purposes of this table, one gallon of kerosene has an energy equivalence of 135,000 Btu.

[FR Doc. 2022–04765 Filed 3–4–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3407–087]

Big Wood Canal Company; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice Approving the Use of the Traditional Licensing Process.

b. *Project No.:* 3407–087.

c. *Date Filed:* January 3, 2022.

d. *Submitted By:* Big Wood Canal Company.

e. *Name of Project:* Magic Reservoir Hydroelectric Project.

f. *Location:* On the Big Wood River in the Blaine and Camas Counties, Idaho. The project occupies land within the U.S. Department of Interior, Bureau of Land Management (BLM).

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Applicant Contact:* Mr. Nicholas E. Josten, 2742 Saint Charles Ave, Idaho Falls, ID 83404, (208) 520–5135.

i. *FERC Contact:* Maryam Zavareh at (202) 502–8474 or email at *Maryam.zavareh@ferc.gov.*

j. Big Wood Canal Company filed its request to use the Traditional Licensing Process on January 3, 2022. Big Wood Canal Company provided public notice of its request on January 18, 2022. In a letter dated February 28, 2022, the Director of the Division of Hydropower Licensing approved Big Wood Canal Company's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402. We are also initiating consultation with the Idaho State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Big Wood Canal Company as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Big Wood Canal Company filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 3407. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by January 01, 2025.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: March 1, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–04768 Filed 3–4–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP22–609–000.
Applicants: TransColorado Gas Transmission Company LLC.
Description: § 4(d) Rate Filing: Quarterly FLU Update Filing to be effective 4/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5078.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–610–000.
Applicants: Dominion Energy Questar Pipeline, LLC.
Description: § 4(d) Rate Filing: Access Agreement Version 7.0.0 to be effective 3/31/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5080.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–611–000.
Applicants: Dominion Energy Overthrust Pipeline, LLC.
Description: § 4(d) Rate Filing: Access Agreement Revision, Version 5.0.0 to be effective 3/31/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5083.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–612–000.
Applicants: White River Hub, LLC.
Description: § 4(d) Rate Filing: Electronic Access Agreement Version 4.0.0 to be effective 3/31/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5084.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–613–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20220228 Negotiated Rate to be effective 3/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5086.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–614–000.
Applicants: Kern River Gas Transmission Company.
Description: § 4(d) Rate Filing: 2022 Daggett Surcharge to be effective 4/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5089.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–615–000.
Applicants: Sabine Pipe Line LLC.
Description: § 4(d) Rate Filing: Normal Section 5 21—rate changes 2022 to be effective 4/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5095.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–616–000.
Applicants: Wyckoff Gas Storage Company, LLC.
Description: Compliance filing: Order 587–Z NAESB Compliance 2–28–2022 to be effective 6/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5156.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–617–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Non-Conforming Amendments Filing (TEP) to be effective 4/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5185.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–618–000.
Applicants: Nautilus Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate—Murphy Exploration 630216 eff 3–1–2022 to be effective 3/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5201.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–619–000.
Applicants: Wyoming Interstate Company, L.L.C.
Description: § 4(d) Rate Filing: Non-Conforming Amendments Filing (Mieco_TMV) to be effective 4/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5211.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–620–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: § 4(d) Rate Filing: Fuel Filing—Eff. April 1, 2022 to be effective 4/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5214.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–621–000.
Applicants: LA Storage, LLC.
Description: § 4(d) Rate Filing: Filing of Negotiated Rate, Conforming IW Agreement (TMV) to be effective 3/1/2022.

Filed Date: 2/28/22.
Accession Number: 20220228–5221.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–622–000.
Applicants: LA Storage, LLC.
Description: § 4(d) Rate Filing: LA Storage 2022 Annual Adjustment of Fuel Retainage Percentage to be effective 4/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5225.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–623–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: 2022 NEXUS ASA Filing to be effective 4/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5239.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–624–000.
Applicants: Columbia Gulf Transmission, LLC.
Description: § 4(d) Rate Filing: TRA 2022 to be effective 4/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5241.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–625–000.
Applicants: Enable Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Line CP Fuel Exemption Filing 4.1.2022 to be effective 4/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5249.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–626–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Devon) to be effective 3/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5251.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–627–000.
Applicants: High Island Offshore System, L.L.C.
Description: 2021 Annual Fuel Tracker Filing of High Island Offshore System, L.L.C.
Filed Date: 2/28/22.
Accession Number: 20220228–5368.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–628–000.
Applicants: UGI Sunbury, LLC.
Description: 2022 Annual Retainage Adjustment Tariff Filing of UGI Sunbury, LLC.
Filed Date: 2/28/22.
Accession Number: 20220228–5379.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–629–000.
Applicants: Alliance Pipeline L.P.
Description: § 4(d) Rate Filing: Negotiated Rates—Various Mar 1 2022 Capacity Releases to be effective 3/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5010.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–630–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: EPCA 2022 to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5011.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–631–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: TCRA 2022 to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5012.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–632–000.
Applicants: Crossroads Pipeline Company.
Description: § 4(d) Rate Filing: TRA 2022 to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5013.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–633–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: RAM 2022 to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5015.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–634–000.
Applicants: High Island Offshore System, L.L.C.
Description: § 4(d) Rate Filing: Storm Damage Surchage 2022 to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5016.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–636–000.
Applicants: BBT Midla, LLC.
Description: Compliance filing: BBT Midla, LLC Annual Fuel Filing to be effective N/A.
Filed Date: 3/1/22.
Accession Number: 20220301–5017.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–637–000.
Applicants: Cimarron River Pipeline, LLC.
Description: § 4(d) Rate Filing: Fuel Tracker 2022—Summer Season Rates to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5026.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–638–000.
Applicants: Dauphin Island Gathering Partners.
Description: § 4(d) Rate Filing: Storm Surcharge 2022 to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5027.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–639–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Conoco Mar 22) to be effective 3/2/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5029.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–640–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (EOG) to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5030.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–641–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Agreement Update Filing (Hartree and EDF) to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5032.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–642–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: § 4(d) Rate Filing: Fuel Filing on 3–1–22 to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5033.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–643–000.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: § 4(d) Rate Filing: Fuel Filing on 3–1–22 to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5034.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–644–000.
Applicants: Trunkline Gas Company, LLC.
Description: § 4(d) Rate Filing: Fuel Filing on 3–1–22 to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5035.
Comment Date: 5 p.m. ET 3/14/22.
Docket Numbers: RP22–645–000.
Applicants: Rover Pipeline LLC.
Description: § 4(d) Rate Filing: Fuel Filing on 3–1–22 to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5037.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–646–000.
Applicants: MarkWest Pioneer, L.L.C.
Description: § 4(d) Rate Filing: Quarterly Fuel Adjustment Filing to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5043.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–647–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Non-Conforming Service Agmts—COR (78194 & 78195) to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5044.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–648–000.
Applicants: Midship Pipeline Company, LLC.
Description: Compliance filing: Midship Pipeline Transportation Retainage Adjustment to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5045.
Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–649–000.
Applicants: Cheniere Creole Trail Pipeline, L.P.
Description: Compliance filing: CCTPL Transportation Retainage Adjustment to be effective 4/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5046.
Comment Date: 5 p.m. ET 3/14/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP22–432–001.
Applicants: Great Basin Gas Transmission Company.
Description: Compliance filing: Gas Quality Specifications to be effective 4/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5252.
Comment Date: 5 p.m. ET 3/14/22.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 1, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–04727 Filed 3–4–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL22–28–000]

Tri-State Generation and Transmission Association, Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On February 28, 2022, the Commission issued an order in Docket No. EL22–28–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation into whether Tri-State Generation and Transmission Association, Inc.'s market-based rate authority in the Western Area Power Administration—Colorado-Missouri balancing authority area remains just and reasonable and to establish a refund effective date. *Tri-State Generation and Transmission Association, Inc.,* 178 FERC ¶ 61,153 (2022).

The refund effective date in Docket No. EL22–28–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL22–28–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2021), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Dated: February 28, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–04685 Filed 3–4–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC22–45–000.
Applicants: TransAlta Energy Marketing (U.S.) Inc., TransAlta Energy Marketing Corp., TransAlta Centralia Generation LLC, TransAlta Wyoming Wind LLC, Lakeswind Power Partners, LLC, Big Level Wind LLC, Eagle Canada Common Holdings LP, BIF IV Eagle NR Carry LP.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of TransAlta Energy Marketing (U.S.) Inc, et al.
Filed Date: 2/28/22.
Accession Number: 20220228–5397.
Comment Date: 5 p.m. ET 3/21/22.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–60–000.
Applicants: Number Three Wind LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Number Three Wind LLC.

Filed Date: 2/28/22.
Accession Number: 20220228–5405.
Comment Date: 5 p.m. ET 3/21/22.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL21–68–000.
Applicants: Nebraska Public Power District.
Description: Request for Remedial Relief Under Federal Power Act Section 309 Request of the Nebraska Public Power District.
Filed Date: 4/19/21.
Accession Number: 20210419–5325.
Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: EL21–68–000.
Applicants: Nebraska Public Power District.
Description: Errata to the April 19, 2021, Request for Remedial Relief Under Federal Power Act Section 309 of the Nebraska Public Power District.
Filed Date: 4/30/21.
Accession Number: 20210430–5687.
Comment Date: 5 p.m. ET 3/22/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–4351–013.
Applicants: Pinnacle Wind, LLC.
Description: Notice of Change in Status of Pinnacle Wind, LLC, et al.
Filed Date: 2/25/22.
Accession Number: 20220225–5270.
Comment Date: 5 p.m. ET 3/18/22.

Docket Numbers: ER19–2019–003.
Applicants: Tucson Electric Power Company.
Description: Tucson Electric Power Company submits Annual Informational Filing with 2020 Annual Update of its Transmission Formula Rate.
Filed Date: 2/28/22.
Accession Number: 20220228–5375.
Comment Date: 5 p.m. ET 3/21/22.

Docket Numbers: ER21–669–006.
Applicants: Morongo Transmission LLC.
Description: Compliance filing: Morongo Transmission Compliance Filing in Docket ER21–669 to be effective 5/15/2021.
Filed Date: 2/28/22.
Accession Number: 20220228–5253.
Comment Date: 5 p.m. ET 3/21/22.

Docket Numbers: ER21–669–007.
Applicants: Morongo Transmission LLC.
Description: Compliance filing: Amendment of Compliance Filing in Docket ER21–669 to be effective 5/15/2021.
Filed Date: 3/1/22.
Accession Number: 20220301–5001.
Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: ER21–1923–001.
Applicants: Black Rock Wind Force, LLC.
Description: Notice of Change in Status of Black Rock Wind Force, LLC.
Filed Date: 2/25/22.
Accession Number: 20220225–5265.
Comment Date: 5 p.m. ET 3/18/22.

Docket Numbers: ER22–511–001.
Applicants: Morongo Transmission LLC.
Description: Compliance filing: Compliance Filing in Docket ER22–511 to be effective 1/1/2022.
Filed Date: 2/28/22.
Accession Number: 20220228–5248.
Comment Date: 5 p.m. ET 3/21/22.

Docket Numbers: ER22–958–000.
Applicants: Entergy Services, LLC, System Energy Resources, Inc.
Description: Formal Challenge of Retail Regulators to January 31, 2022 Annual Informational Filing by System Energy Resources, Inc.
Filed Date: 2/28/22.
Accession Number: 20220228–5376.
Comment Date: 5 p.m. ET 3/30/22.

Docket Numbers: ER22–1131–000.
Applicants: New England Power Pool Participants Committee.
Description: § 205(d) Rate Filing: March 2022 Membership Filing to be effective 3/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5000.
Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: ER22–1132–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Notice of Cancellation of WMPA, SA No. 3188; Queue No. W3–135 to be effective 3/1/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5031.
Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: ER22–1133–000.
Applicants: Black Hills Power, Inc.
Description: Informational Filing of [2022] Formula Rate Annual Update of Black Hills Power, Inc.
Filed Date: 2/25/22.
Accession Number: 20220225–5269.
Comment Date: 5 p.m. ET 3/18/22.

Docket Numbers: ER22–1134–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii): Pine Gate Renewables (Fable Solar) LGIA Filing to be effective 2/14/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5130.
Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: ER22–1135–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii): Pine Gate Renewables (Happy Lake Solar) LGIA Filing to be effective 2/14/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5135.
Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: ER22–1136–000.
Applicants: Sac County Wind, LLC.
Description: Baseline eTariff Filing: Reactive Power Compensation Filing to be effective 4/30/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5153.
Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: ER22–1137–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Notice of Cancellation of ICSA, SA No. 5559; Queue No. AE1–142 to be effective 11/3/2021.
Filed Date: 3/1/22.
Accession Number: 20220301–5183.
Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: ER22–1139–000.
Applicants: Flat Ridge 2 Wind Energy LLC.
Description: § 205(d) Rate Filing: Certificate of Concurrence to Common Facilities Agreement to be effective 4/2/2022.
Filed Date: 3/1/22.
Accession Number: 20220301–5207.
Comment Date: 5 p.m. ET 3/22/22.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES22–30–000.
Applicants: Xcel Energy Southwest Transmission Company, LLC.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Xcel Energy Southwest Transmission Company, LLC.
Filed Date: 3/1/22.
Accession Number: 20220301–5241.
Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: ES22–31–000.
Applicants: Xcel Energy Transmission Development Company, LLC.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Xcel Energy Transmission Development Company, LLC.
Filed Date: 3/1/22.
Accession Number: 20220301–5251.
Comment Date: 5 p.m. ET 3/22/22.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF21–222–002.
Applicants: Board of Trustees of Michigan State University.

Description: Form 556 of Board of Trustees of Michigan State University.
Filed Date: 2/24/22.
Accession Number: 20220224–5094.
Comment Date: 5 p.m. ET 3/28/22.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 1, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–04726 Filed 3–4–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2741–037]

Kings River Conservation District; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-capacity amendment of license.

b. *Project No.:* 2741–037.

c. *Date Filed:* December 21, 2021, supplemented February 2, 2022.

d. *Applicant:* Kings River Conservation District.

e. *Name of Project:* Pine Flat Hydroelectric Project.

f. *Location:* The project is located on the Kings River in Fresno County California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* David M. Merritt, 4886 E Jensen Ave, Fresno, CA, 93725, (559) 237–5567, *dmerritt@krcd.org.*

i. *FERC Contact:* Jeffrey V. Ojala, (202) 502–8206, *Jeffrey.Ojala@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* March 31, 2022.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2741–037. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The Kings River Conservation District (KRCD), filed an application for a non-capacity amendment of the license to add a 6.3 megawatt generating unit. The existing project license authorizes the KRCD to utilize three penstocks installed in the U.S. Army Core of Engineers, Pine Flat Dam. The Jeff L. Taylor Powerhouse, located at the toe of the dam, contains three 55 MW Francis turbines, and generates electricity with run of the river flows ranging from 500 to 8,000 cubic feet per second (cfs). To maintain downstream cold water flows, a non-project bypass system releases 900 cfs when the penstocks are not open. KRCD proposes to add an additional generating unit to the bypass system that would increase generation capacity from 165 MW by 3.8% to a total of 171.3 MW. This generator would allow for power generation at flows below 500 cfs.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: March 1, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–04769 Filed 3–4–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4784–106]

Topsham Hydro Partners Limited Partnership (L.P.); Notice of Settlement Agreement and Soliciting Comments

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project No.:* 4784–106.

c. *Date filed:* February 24, 2022.

d. *Applicant:* Topsham Hydro Partners Limited Partnership (L.P.)

e. *Name of Project:* Pejepscot Hydroelectric Project.

f. *Location:* On the Androscoggin River in Sagadahoc, Cumberland, and Androscoggin Counties in the village of Pejepscot and the town of Topsham, Maine. The project does not affect federal lands.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Mr. Luke T. Anderson, Manager, Licensing, Brookfield Renewable, 150 Main Street, Lewiston, Maine 04240, telephone 207–755–5613, *Luke.Anderson@BrookfieldRenewable.com.*

i. *FERC Contact:* Ryan Hansen, telephone (202) 502–8074, and email *ryan.hansen@ferc.gov.*

j. *Deadline for filing comments:* March 20, 2022. Reply comments due March 30, 2022.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–4784–106.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Topsham Hydro Partners Limited Partnership (L.P.) (Topsham Hydro) filed a Settlement Agreement for Modified Prescription for Fishways executed by and between the licensee and the U.S. Department of Interior's U.S. Fish and Wildldife Service. The purpose of the agreement is to resolve the parties' disagreements over the appropriate terms of a prescription for fishways for upstream and downstream passage of American eel at the project under the new license. Topsham Hydro requests that the Commission consider the Settlement Agreement in its environmental analysis of the project relicensing, acknowledge the Offer of Settlement, and incorporate the terms of the agreement which will be reflected in the modified fishway prescription in the new license for the project. The Settlement Agreement details the terms of the modified prescription for upstream and downstream passage of American eel at the project to be filed by the Department within 60 days after the deadline for filing comments on the Commission's draft environmental document. With respect to downstream passage of American eel, the Agreement provides for both interim and permanent downstream passage measures, based on the outcome of studies to be conducted by Topsham Hydro, as well as effectiveness testing of those interim and permanent measures. With respect to upstream passage of American eel, the Agreement includes temporary upstream passage measures, permanent upstream passage measures, and effectiveness testing of those permanent measures.

l. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (*i.e.,* P–4784). At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC Online Support.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: February 28, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–04684 Filed 3–4–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14804–003]

Control Technology, Inc.; Notice of Intent To File License Application, Filing of Pre-Application Document (Pad), Commencement of Pre-Filing Process, and Scoping, Request for Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for an Original License, Commencing Pre-filing Process, and Denial of Request to Use the Traditional Licensing Process.

b. *Project No.:* 14804.

c. *Dated Filed:* May 25, 2021.

d. *Submitted By:* Control Technology, Inc. (Control Technology).

e. *Name of Project:* Blue Diamond Advanced Pumped Storage Project.

f. *Location:* Near the town of Blue Diamond, in Clark County, Nevada. The project would occupy an unknown acreage of federal land administered by the Bureau of Land Management (BLM).

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Applicant Contact:* Mr. Rexford Wait, Control Technology, Inc., 2416 Cades Way, Vista, CA 92081; (760) 599–0086; email: *rwait@controltechnology.org.*

i. *FERC Contact:* Evan Williams, (202) 502–8462, *evan.williams@ferc.gov.*

j. Control Technology filed its Pre-Application Document (PAD) and request to use the Traditional Licensing Process (TLP) on May 25, 2021, and published public notice of its Notice of Intent to file a license application, PAD, and request to use the TLP on November 2, 2021. The Commission denied the request to use the TLP on January 27, 2022. Control Technology must use the Integrated Licensing Process to prepare a license application for the Blue Diamond Advanced Pumped Storage Project.

k. Cooperating agencies: Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

l. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and (c) the Nevada State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

m. With this notice, we are designating Control Technology as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act, and section 106 of the National Historic Preservation Act.

n. A copy of the PAD is available for review on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19) pandemic, issued by the President on March 13, 2020. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available via the contact in paragraph h.

You may register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Commission's staff Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission.

The Commission strongly encourages electronic filing. Please file documents using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Blue Diamond Advanced Pumped Storage Project (P–14804).

All filings with the Commission must bear the appropriate heading: ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by April 29, 2022.

p. The Commission's scoping process will help determine the required level of analysis and satisfy the National Environmental Policy Act (NEPA) scoping requirements, irrespective of whether the Commission prepares an environmental assessment or environmental impact statement.

Scoping Process

Due to on-going concerns with large gatherings related to COVID–19, we do not intend to hold in-person public scoping meetings or an in-person environmental site review. Rather, Commission staff will hold two public scoping meetings using a telephone conference line. The daytime scoping meeting will focus on resource agency, Indian tribes, and non-governmental organization (NGO) concerns, while the evening scoping meeting will focus on receiving input from the public. We invite all interested agencies, Native American tribes, NGOs, and individuals to attend one of these meetings to assist us in identifying the scope of environmental issues that should be analyzed in the NEPA document. In addition, Control Technology will provide a presentation of the proposed project prior to the scoping meeting date that can be accessed at: *https://controltechnologyorg.sharepoint.com/:f:/s/BlueDiamondPumpedStorageProject/EoXtMViiW0dLthriIlViL5cBU8j0nYedHiX8TIVojEcLoA?e=S0Djpp.* The dates and times of the meetings are listed below.

Meeting for Resource Agencies, Tribes, and NGOs

Tuesday, March 29, 2022, 9:00 a.m.–12:00 p.m. PST

Call in number: (800) 779–8625.

Access code: 3472916.

Following entry of the access code, please provide the required details when prompted.

Meeting for the General Public

Tuesday, March 29, 2022, 6:00 p.m.–8:00 p.m. PST

Call in number: (800) 779–8625.

Access code: 3472916.

Following entry of the access code, please provide the required details when prompted.

SD1, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list and Control Technology's distribution list. Copies of SD1 may be viewed on the web at *http://www.ferc.gov,* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 will include a revised process plan and schedule, as

well as a list of issues, based on the scoping process.

Meeting Objectives

At the scoping meetings, Commission staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the potential of any federal or state agency or Indian tribe to act as a cooperating agency for development of an environmental document. Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n of this document.

Meeting Procedures

Commission staff will be moderating the scoping meetings. The meetings will begin promptly at their respective start times listed above.

At the start of the meeting, staff will provide further instructions regarding the meeting setup, agenda, and time period for comments and questions. We ask for your patience as staff present information and field participant comments in orderly manner. To indicate you have a question or comment, press * and 3 to virtually ''raise your hand''. Oral comments will be limited to 5 minutes in duration for each participant. The meetings will be recorded by a stenographer and will be filed to the public record of the project.

Please note, that if no participants join the meetings within 15 minutes after the start time, staff will end the meeting and conference call. The meetings will end after participants have presented their oral comments or at the specified end time, whichever occurs first.

Dated: February 28, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–04686 Filed 3–4–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9553–01–OMS]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, Nebraska Department of Environment and Energy (NDEE)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Environmental Protection Agency's (EPA) approval of the Nebraska Department of Environment and Energy (NDEE) request to revise/modify certain of its EPA-authorized programs to allow electronic reporting.

DATES: EPA approves the authorized program revisions/modifications as of March 7, 2022.

FOR FURTHER INFORMATION CONTACT: Shirley M. Miller, U.S. Environmental Protection Agency, Office of Information Management, Mail Stop 2824T, 1200 Pennsylvania Avenue NW, Washington, DC 20460, (202) 566–2908, *miller.shirley@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On January 10, 2022, the Nebraska Department of Environment and Energy (NDEE) submitted an application titled NPDES Electronic Reporting Tool for Pesticide General Permit (NeTPGP) for revisions/modifications to its EPA-approved programs under title 40 CFR to allow new electronic reporting. EPA reviewed NDEE's request to revise/modify its EPA-authorized programs and, based on this review, EPA determined that the application met the standards for approval of authorized program revisions/modifications set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve NDEE's request to revise/modify its following EPA-authorized programs to allow electronic reporting under 40 CFR is being published in the **Federal Register**:

Part 123: EPA-Administered Permit Programs: The National Pollutant Discharge Elimination System (NPDES) Reporting under 40 CFR 122 and 125

NDEE was notified of EPA's determination to approve its application with respect to the authorized programs listed above.

Dated: March 1, 2022.

Jennifer Campbell,

Director, Office of Information Management.

[FR Doc. 2022–04760 Filed 3–4–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2016–0725; FRL–9403–01–OCSPP]

Colour Index Pigment Violet 29 (PV29); Draft Revision to Toxic Substances Control Act (TSCA) Risk Determination; Notice of Availability and Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of and requesting public comment on a draft revision to the risk determination for the Colour Index Pigment Violet 29 (PV 29) risk evaluation issued under TSCA. The draft revision to the PV 29 risk determination was developed following a review of the first ten risk evaluations issued under TSCA that was done in

accordance with Executive Orders and other Administration priorities, including those on environmental justice, scientific integrity, and regulatory review, and this draft revision reflects the announced policy changes to ensure the public is protected from unreasonable risks from chemicals in a way that is supported by science and the law. Specifically, in this draft revision to the risk determination EPA finds that PV 29, as a whole chemical substance, presents an unreasonable risk of injury to health when evaluated under its conditions of use. This draft revision would supersede the condition of use-specific no unreasonable risk determinations in the January 2021 PV 29 risk evaluation (and withdraw the associated order) and make a revised determination of unreasonable risk for PV 29 as a whole chemical substance. In addition, this draft revised risk determination does not reflect an assumption that workers always appropriately wear personal protective equipment (PPE).

DATES: Comments must be received on or before April 21, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–EPA–HQ–OPPT–2016–0725, using the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is by appointment only. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Todd Coleman, Office of Pollution Prevention and Toxics (7404T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–1208; email address: *Coleman.Todd@EPA.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to those involved in the manufacture, processing, distribution, use, disposal, and/or the assessment of risks involving chemical substances and mixtures. You may be potentially affected by this action if you manufacture (defined under TSCA to include import), process (including recycling), distribute in commerce, use or dispose of PV 29, including PV 29 in products. Since other entities may also be interested in this draft revision to the risk determination, the EPA has not attempted to describe all the specific entities that may be affected by this action.

B. What is EPA's authority for taking this action?

TSCA section 6, 15 U.S.C. 2605, requires EPA to conduct risk evaluations to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation by the Administrator, under the conditions of use. 15 U.S.C. 2605(b)(4)(A). TSCA sections 6(b)(4)(A) through (H) enumerate the deadlines and minimum requirements applicable to this process, including provisions that provide instruction on chemical substances that must undergo evaluation, the minimum components of a TSCA risk evaluation, and the timelines for public comment and completion of the risk evaluation. TSCA also requires that EPA operate in a manner that is consistent with the best available science, make decisions based on the weight of the scientific evidence, and consider reasonably available information. 15 U.S.C. 2625(h), (i), and (k).

The statute identifies the minimum components for all chemical substance risk evaluations. For each risk evaluation, EPA must publish a document that outlines the scope of the risk evaluation to be conducted, which includes the hazards, exposures, conditions of use, and the potentially exposed or susceptible subpopulations that EPA expects to consider. 15 U.S.C. 2605(b)(4)(D). The statute further provides that each risk evaluation must also: (1) Integrate and assess available information on hazards and exposures for the conditions of use of the chemical substance, including information that is relevant to specific risks of injury to health or the environment and information on relevant potentially exposed or susceptible subpopulations; (2) describe whether aggregate or sentinel exposures were considered and the basis for that consideration; (3) take into account, where relevant, the likely duration, intensity, frequency, and number of exposures under the conditions of use; and (4) describe the weight of the scientific evidence for the identified hazards and exposures. 15 U.S.C. 2605(b)(4)(F)(i) through (ii) and (iv) through (v). Each risk evaluation must not consider costs or other non-risk factors. 15 U.S.C. 2605(b)(4)(F)(iii).

EPA has inherent authority to reconsider previous decisions and to revise, replace, or repeal a decision to the extent permitted by law and supported by reasoned explanation. *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009); *see also Motor Vehicle Mfrs. Ass'n* v. *State Farm Mutual Auto. Ins. Co.,* 463 U.S. 29, 42 (1983).

C. What action is EPA taking?

EPA is announcing the availability of and seeking public comment on a draft revision to the risk determination for the risk evaluation for PV 29 under TSCA, published in January 2021 (Ref. 1). EPA is specifically seeking public comment on the draft revision to the risk determination for the risk evaluation where the agency intends to determine that PV 29, as a whole chemical, presents an unreasonable risk of injury to health when evaluated under its conditions of use. This whole chemical approach to determining unreasonable risk to health is permissible under EPA's statutory obligations under TSCA section 6(b)(4) and the implementing regulations and would revise and replace section 5 of the risk evaluation for PV 29 where the findings of unreasonable risk to health were previously made for the individual conditions of use evaluated.

This revision would be consistent with EPA's plans to revise specific aspects of the first ten TSCA chemical risk evaluations in order to ensure that the risk evaluations better align with TSCA's objective of protecting health and the environment. Under the draft revision, the same ten conditions of use would continue to drive the unreasonable risk determination for PV 29. Removing the assumptions of PPE use in making the whole chemical risk determination for PV 29 would not alter the conditions of use or worker subpopulations that drive the unreasonable risk determination for PV 29. Overall, ten conditions of use drive the PV 29 whole chemical unreasonable risk determination due to risks identified for human health. The full list of the conditions of use evaluated for the PV 29 risk evaluation is in Table 5–1 of the risk evaluation (Ref. 1).

D. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Background

A. Why is EPA re-issuing the risk determination for the PV 29 risk evaluation conducted under TSCA?

In 2016, as directed by TSCA section 6(b)(2)(A), EPA chose the first ten chemical substances to undergo risk evaluations under the amended TSCA. These chemical substances are asbestos, 1-bromopropane, carbon tetrachloride, C.I. Pigment Violet 29 (PV 29), cyclic aliphatic bromide cluster (HBCD), 1,4-dioxane, methylene chloride, n-methylpyrrolidone (NMP), perchloroethylene (PCE), and trichloroethylene (TCE).

From June 2020 to January 2021, EPA published risk evaluations on the first ten chemical substances, including for PV 29 in January 2021. The risk evaluations included individual unreasonable risk determinations for each condition of use evaluated. The determinations that particular conditions of use did not present an unreasonable risk were issued by order under TSCA section 6(i)(1).

In accordance with Executive Order 13990 (Ref. 2) and other Administration priorities (Refs. 3, 4, and 5), EPA is reviewing the risk evaluations for the first ten chemical substances to ensure that they meet the requirements of TSCA, including conducting decision making in a manner that is consistent with the best available science.

As a result of this review, EPA announced plans to revise specific aspects of the first ten risk evaluations in order to ensure that the risk evaluations appropriately identify unreasonable risks and thereby help ensure the protection of human health and the environment available here *https://www.epa.gov/newsreleases/epa-announces-path-forward-tsca-chemical-risk-evaluations.* To that end, EPA is reconsidering two key aspects of the risk determinations for PV 29 published in January 2021. First, based on EPA's review, EPA proposes that the appropriate approach to these determinations under the statute and implementing regulations is to make an unreasonable risk determination for PV 29 as a whole chemical substance, rather than making unreasonable risk determinations separately on each individual condition of use evaluated in the risk evaluation. Second, EPA proposes that the risk determination should be explicit that it does not rely on assumptions regarding the use of personal protective equipment (PPE) in making the unreasonable risk determination under TSCA section 6; rather, the use of PPE would be considered during risk management.

This action pertains only to the risk determination for PV 29. While EPA intends to consider and may take additional similar actions on other of the first ten chemicals, EPA is taking a chemical-specific approach to reviewing the risk evaluations and is incorporating new policy direction in a surgical manner, while being mindful of the Congressional direction on the need to complete risk evaluations and move toward any associated risk management activities in accordance with statutory deadlines. To the extent the Agency deems appropriate, additional actions may follow that are specific to each of the chemical substances for which EPA has issued final risk evaluations under TSCA section 6.

B. What is a whole chemical view of the unreasonable risk determination for the PV 29 risk evaluation?

TSCA section 6 repeatedly refers to determining whether a chemical *substance* presents unreasonable risk under its conditions of use. Stakeholders have disagreed over whether a chemical substance should receive: A single determination that is comprehensive for the chemical substance after considering the conditions of use, referred to as a whole-chemical determination; or multiple determinations, each of which is specific to a condition of use, referred to as condition-of-use-specific determinations. EPA acknowledges a lack of specificity in the statute and inconsistency in the regulations with respect to the presentation of risk determinations in TSCA risk evaluations.

The proposed risk evaluation procedural rule was premised on the whole chemical approach to making unreasonable risk determinations (Ref. 6). EPA acknowledged a lack of specificity in whether the statute compelled EPA's risk evaluations to address all conditions of use of a chemical substance or whether EPA had discretion to evaluate some subset of conditions of use (*i.e.,* to scope out some manufacturing, processing, distribution in commerce, use, or disposal activities). The proposed rule, however, was unambiguous on the point that unreasonable risk determinations would be for the chemical substance as a whole, even if based on a subset of uses. (See Ref. 6 at pgs. 7565–66: ''TSCA section 6(b)(4)(A) specifies that a risk evaluation must determine whether 'a chemical substance' presents an unreasonable risk of injury to health or the environment 'under the conditions of use.' The evaluation is on the chemical substance—not individual conditions of use—and it must be based on 'the conditions of use.' In this context, EPA believes the word 'the' is best interpreted as calling for evaluation that considers all conditions of use.''). In the proposed regulatory text, EPA proposed to ''determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use as identified in the final scope document . . .'' (Ref. 6 at pg. 7480).

As stated in the final risk evaluation procedural rule (Ref. 7): ''As part of the risk evaluation, EPA will determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under each condition of uses [sic] within the scope of the risk evaluation, either in a single decision document or in multiple decision documents.'' (See also 40 CFR 702.47). For the unreasonable risk determinations in the first ten risk evaluations, EPA applied this provision by making individual risk determinations for each condition of use evaluated in each risk evaluation (*i.e.,* the condition-of-use-specific approach to risk determinations). That approach was based on one particular passage in the preamble to the final risk evaluation procedural rule: ''The final step of a risk evaluation is for EPA to determine whether the chemical substance, under the conditions of use, presents an unreasonable risk of injury to health or the environment. EPA will make individual risk determinations for all uses identified in the scope. This part of the regulation is slightly amended from

the proposed rule, to clarify that the risk determination is part of the risk evaluation, as well as to account for the revised approach to that [sic] ensures each condition of use covered by the risk evaluation receives a risk determination.'' (Ref. 7 at pg. 33744).

In contrast to this portion of the preamble of the final risk evaluation procedural rule, the regulatory text itself and other statements in the preamble reference a risk determination *for the chemical substance* under its conditions of use, rather than separate risk determinations for each of the conditions of use of a chemical substance. In the key regulatory provision excerpted above from 40 CFR 702.47, the text explains that, ''[a]s part of the risk evaluation, EPA will determine whether *the chemical substance* presents an unreasonable risk of injury to health or the environment under each condition of uses [sic] within the scope of the risk evaluation, either in a single decision document or in multiple decision documents'' (Ref. 7, emphasis added). Other language reiterates this perspective. For example, 40 CFR 702.31(a) states that the purpose of the rule is to establish the EPA process for conducting a risk evaluation to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment as required under TSCA section 6(b)(4)(B). Likewise, there are recurring references to whether the chemical substance presents an unreasonable risk in 40 CFR 702.41(a). See, for example, 40 CFR 702.41(a)(6), which states: ''[t]he extent to which EPA will refine its evaluations for one or more condition of use in any risk evaluation will vary as necessary to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment.'' Notwithstanding the one preambular statement about condition-of-use-specific risk determinations, the preamble to the final rule also contains support for a risk determination on the chemical substance as a whole. In discussing the identification of the conditions of use of a chemical substance, the preamble notes that this task inevitably involves the exercise of discretion on EPA's part, and, ''as EPA interprets the statute, the Agency is to exercise that discretion consistent with the objective of conducting a technically sound, manageable evaluation to determine whether a chemical substance—not just individual uses or activities—presents an unreasonable risk.'' (Ref. 7 at pg. 33729).

Therefore, notwithstanding EPA's choice to issue condition-of-use-specific risk determinations to date, EPA interprets its risk evaluation regulation to also allow the Agency to issue whole-chemical risk determinations. Either approach is permissible under the regulation. A panel of the Ninth Circuit Court of Appeals also recognized the ambiguity of the regulation on this point. *Safer Chemicals* v. *EPA, 943 F.3d 397, 413* (9th Cir. 2019) (holding a challenge about ''use-by-use risk evaluations [was] not justiciable because it is not clear, due to the ambiguous text of the Risk Evaluation Rule, whether the Agency will actually conduct risk evaluations in the manner Petitioners fear''). EPA plans to consider the appropriate approach for each chemical substance risk evaluation on a case-by-case basis, taking into account considerations relevant to the specific chemical substance in light of the Agency's obligations under TSCA. The Agency expects that this case-by-case approach will provide greater flexibility in the Agency's ability to evaluate and manage unreasonable risk from individual chemical substances. For instance, circumstances in which an unreasonable risk determination is primarily driven by a single condition of use that does not impact or intersect with other evaluated uses (such as for example, a single consumer use of a substance out of a wide range of other manufacturing, processing and consumer uses evaluated) may warrant different treatment than circumstances in which the majority of the chemical substance's conditions of use contribute to unreasonable risk, and the Agency might adopt different approaches to the risk determinations in those particular instances. EPA anticipates that this flexibility will better serve TSCA's objectives by helping ensure that EPA is best positioned to present, and initiate risk management to address, chemical-specific unreasonable risk determinations. EPA believes this is a reasonable approach under TSCA and the Agency's implementing regulations.

With regard to the specific circumstances of PV 29, as further explained in this notice, EPA proposes that a whole chemical approach better aligns with TSCA's objective of protecting health and the environment. For PV 29, EPA favors the whole chemical approach based in part on the benchmark exceedances for multiple conditions of use (spanning across most aspects of the chemical lifecycle—from manufacturing (including import), processing, commercial and industrial use, and disposal) for health of workers and occupational non-users and the irreversible health effects (specifically alveolar hyperplasia) associated with PV 29 exposures. Since the chemical-specific properties cut across the conditions of use within the scope of the risk evaluation, the Agency's risk findings and conclusions encompass the majority of those conditions of use, and the Agency is better positioned to achieve its TSCA objectives for PV 29 when issuing a whole chemical determination for PV 29, EPA concludes that the Agency's risk determination for PV 29 is better characterized as a whole chemical risk determination rather than condition-of-use-specific risk determinations.

As explained later in this document, the revisions to the unreasonable risk determination (section 5 of the risk evaluation) would be based on the existing risk characterization section of the risk evaluation (section 4 of the risk evaluation) and would not involve additional technical or scientific analysis. The discussion of the issues presented in this **Federal Register** document and in the accompanying draft revision to the risk determination would supersede any conflicting statements in the prior PV 29 risk evaluation and the response to comments document (Ref.). With respect to the PV 29 risk evaluation, EPA intends to change the risk determination to a whole chemical approach without considering the use of PPE and does not intend to amend, nor does a whole chemical approach require amending, the underlying scientific analysis of the risk evaluation in the risk characterization section of the risk evaluation. EPA views the peer reviewed hazard and exposure assessments and associated risk characterization as robust and upholding the standards of best available science and weight of the scientific evidence per TSCA sections 26(h) and (i).

EPA is announcing the availability of and seeking public comment on the draft superseding unreasonable risk determination for PV 29, including a list of the condition-of-use-specific risks driving the unreasonable risk determination for the chemical substance as a whole. For purposes of TSCA section 6(i), EPA is making a risk determination on PV 29 as a whole chemical. Under the revised approach, EPA is proposing to supersede the no unreasonable risk determinations (and withdraw the associated order) for PV 29 that were premised on a condition-of-use-specific approach to determining unreasonable risk.

C. What revision does EPA propose about the use of PPE for the PV 29 risk evaluation?

In the risk evaluations for the first ten chemical substances, as part of the unreasonable risk determination, EPA assumed for several conditions of use that all workers were provided and always used PPE in a manner that achieves the stated assigned protection factor (APF) for respiratory protection, or protection factor (PF) for dermal protection. In support of this assumption, EPA used reasonably available information such as public comments indicating that some employers, particularly in the industrial setting, provide PPE to their employees and follow established worker protection standards (*e.g.,* Occupational Safety and Health Administration (OSHA) requirements for protection of workers).

For the January 2021 PV 29 risk evaluation, EPA assumed based on information provided by the manufacturer of PV 29 that workers use PPE—specifically, respirators with an APF ranging from 10 to 25—for eight conditions of use. However, in the January 2021 PV 29 risk evaluation, EPA determined that there is unreasonable risk to these workers even with this assumed PPE use.

When characterizing the risk to human health from occupational exposures during risk evaluation under TSCA, EPA believes it is appropriate to evaluate the levels of risk present in baseline scenarios where no mitigation measures are assumed to be in place. It should be noted that, in some cases, baseline conditions may reflect certain mitigation measures, such as engineering controls, in instances where exposure estimates are based on monitoring data at facilities that have engineering controls in place. This approach considers the risk to potentially exposed or susceptible subpopulations of workers who may not be covered by OSHA standards, such as self-employed individuals and public sector workers who are not covered by a State Plan.

In addition, EPA believes it is appropriate to evaluate the levels of risk present in scenarios considering applicable OSHA requirements (*e.g.,* chemical-specific permissible exposure limits (PELs) and/or chemical-specific PELs with additional substance-specific standards) as well as scenarios considering industry or sector best practices for industrial hygiene that are clearly articulated to the Agency. It should be noted that, in some cases, baseline conditions may reflect certain mitigation measures, such as engineering controls, in instances where exposure estimates are based on monitoring data at facilities that have engineering controls in place. Consistent with this approach, the January 2021 PV 29 risk evaluation characterized risk to workers both with and without the use of PPE.

When undertaking unreasonable risk determinations as part of TSCA risk evaluations, however, EPA does not believe it is appropriate to assume as a general matter that an applicable OSHA requirement or industry practice is sufficient to address the risk, applicable to all potentially exposed workers, or consistently and always properly applied. Mitigation scenarios included in the EPA risk evaluation (*e.g.,* scenarios considering use of various PPE) likely represent what is happening already in some facilities. However, the Agency cannot assume that all facilities have adopted these practices for the purposes of making the TSCA risk determination. Additionally, as previously noted, self-employed individuals and public sector workers who are not covered by a State Plan are not covered by OSHA requirements. By characterizing risks using scenarios that reflect different levels of mitigation, EPA risk evaluations can help inform potential risk management actions by providing information that could be used during risk management to tailor risk mitigation appropriately to address any unreasonable risk identified.

Therefore, going forward, EPA intends to make its determination of unreasonable risk from a baseline scenario that does not assume compliance with OSHA standards, including any applicable exposure limits or requirements for use of respiratory protection or other PPE. Making unreasonable risk determinations based on the baseline scenario should not be viewed as an indication that EPA believes there are no occupational safety protections in place at any location, or that there is widespread non-compliance with applicable OSHA standards. Rather, it reflects EPA's recognition that unreasonable risk may exist for subpopulations of workers that may be highly exposed because they are not covered by OSHA standards, such as self-employed individuals and public sector workers who are not covered by a State Plan, or because their employer is out of compliance with OSHA standards, or because EPA finds unreasonable risk for purposes of TSCA notwithstanding OSHA requirements.

In accordance with this approach, EPA proposes that the draft revision to the PV 29 risk determination not rely on assumptions regarding the occupational use of PPE in making the unreasonable risk determination under TSCA section 6; rather, the use of PPE would be considered during risk management. This would represent a change from the approach taken in the 2021 risk evaluation for PV 29 and EPA invites comments on this draft change to the PV29 risk determination. As a general matter, when undertaking risk management actions, EPA intends to strive for consistency with applicable OSHA requirements and industry best practices, including appropriate application of the hierarchy of controls, when those measures would address an unreasonable risk; ensure the EPA requirements apply to all potentially exposed workers; and develop occupational risk mitigation measures to address any unreasonable risks identified by EPA. Consistent with TSCA section 9(d), EPA will consult and coordinate TSCA activities with OSHA and other relevant Federal agencies for the purpose of achieving the maximum applicability of TSCA while avoiding the imposition of duplicative requirements. Informed by the mitigation scenarios and information gathered during the risk evaluation and risk management process, the Agency might propose rules that require risk management practices that may be already common practice in many or most facilities. Adopting clear, comprehensive regulatory standards will foster compliance across all facilities (ensuring a level playing field) and assure protections for all affected workers, especially in cases where current OSHA standards may not apply or be sufficient to address the unreasonable risk.

By removing the assumptions of PPE use in making the whole chemical risk determination for PV 29 would not alter the conditions of use that drive EPA's unreasonable risk determination for PV 29 as a whole chemical. The draft revision to the risk determination would clarify that EPA does not rely on the assumed use of PPE when making the risk determination for the whole substance. EPA is requesting comment on this potential change.

D. What is PV 29?

PV 29 is a high color strength, weather fast and heat stable pigment used in various industrial, commercial, and consumer applications. Domestic manufacture of PV 29 is conducted by a sole manufacturer. Imported PV 29 pigment, without being processed into a different product, makes up a very small market share of the PV 29 supply chain.

Leading applications for C.I. Pigment Violet 29 include use as an intermediate to create or adjust color of other perylene pigments, incorporation into paints and coatings used primarily in the automobile industry, incorporation into plastic and rubber products used primarily in automobiles and industrial carpeting, use in merchant ink for commercial printing, and use in consumer watercolors and artistic color.

E. What conclusions did EPA reach about the risks of PV 29 in the TSCA risk evaluation based on the whole chemical approach and not assuming the use of PPE?

EPA determined that PV 29 presents an unreasonable risk to health driven by risk associated with the following conditions of use: Manufacture (including import); processing (incorporation into formulation, mixture, or reaction products including paints and coatings and plastic and rubber products; processing as an intermediate in the creation of adjustment of color or other perylene pigments; and recycling); industrial/commercial use of PV 29 in automotive (Original Equipment Manufacture (OEM) and refinishing) paints and coatings, coatings and basecoats, and merchant ink for commercial printing; and disposal of PV 29. By removing the assumption of PPE use in making the whole chemical risk determination for PV 29, there are no additional conditions of use or worker subpopulations that would drive the draft unreasonable risk determination. The same ten COUs would continue to drive EPA's unreasonable risk determination.

III. Revision of the January 2021 Risk Evaluation

A. Why is EPA proposing to revise the risk determination for the PV 29 risk evaluation?

EPA is proposing to revise the risk determination for the PV 29 risk evaluation pursuant to TSCA section 6(b) and consistent with Executive Order 13990, (''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis'') and other Administration priorities (Refs. 1, 3, and 4). EPA plans to consider revising specific aspects of the first ten TSCA existing chemical risk evaluations in order to ensure that the risk evaluations better align with TSCA's objective of protecting health and the environment. For the PV 29 risk evaluation, this includes the draft revision: (1) Making the risk determination in this instance based on the whole chemical substance instead of by individual conditions of use (which would result in the new determination superseding the determinations and the withdrawal of the associated order of no unreasonable risk for the conditions of use identified in the no unreasonable risk order), and (2) clarifying that the risk determination does not rely on assumed use of PPE.

B. What are the draft revisions?

EPA is releasing a draft revision of the risk determination for the PV 29 risk evaluation pursuant to TSCA section 6(b). Under the revised determination, EPA proposes to conclude that PV 29, as evaluated in the risk evaluation as a whole, presents an unreasonable risk of injury to health when evaluated under its conditions of use. This revision would replace the previous unreasonable risk determinations made for PV 29 by individual conditions of use, supersede the determinations (and withdraw the associated order) of no unreasonable risk for the conditions of use identified in the no unreasonable risk order, and clarify the lack of reliance on assumed use of PPE as part of the risk determination.

These draft revisions do not alter any of the underlying technical or scientific information that informs the risk characterization, and as such the hazard, exposure, and risk characterization sections are not changed except to the extent that statements about PPE assumptions in section 2.3.1.4 (Consideration of Engineering Controls and PPE), paragraph four, of the PV 29 risk evaluation would be superseded. The discussion of the issues in this Notice and in the accompanying draft revision to the risk determination would supersede any conflicting statements in the prior executive summary and section 2.3.1.4 from the PV 29 risk evaluation and the response to comments document (Ref. 8). Additional policy changes to other chemical risk evaluations, including any consideration of potentially exposed and susceptible subpopulations and/or inclusion of additional exposure pathways, are not necessarily reflected in these draft revisions to the risk determination.

C. Will the draft revised risk determination be peer reviewed?

The risk determination (section 5 in the January 2021 risk evaluation) was not part of the scope of the peer reviews of the first ten chemicals by the Science Advisory Committee on Chemicals (SACC). Thus, consistent with that approach, EPA does not intend to conduct peer review for the draft revised unreasonable risk determination for the PV 29 risk evaluation because no technical or scientific changes will be made to the hazard or exposure assessments or the risk characterization.

D. What are the next steps for finalizing revisions to the risk determination?

EPA will review and consider public comment received on the draft revised risk determination for the PV 29 risk evaluation and, after considering those public comments, issue the revised final PV 29 risk determination. If finalized as drafted, EPA would also issue a new order to withdraw the TSCA section 6(i)(1) no unreasonable risk order issued in section 5.4.1 of the 2021 PV29 risk evaluation. This final revised risk determination would supersede the January 2021 risk determinations of no unreasonable risk. Consistent with the statutory requirements of TSCA section 6(a), the Agency would then propose risk management actions to address the unreasonable risk determined in the PV 29 risk evaluation.

IV. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA Risk Evaluation for C.I. Pigment Violet 29. EPA Document #740–R–18–015. January 2021. *https://www.epa.gov/sites/default/files/2021-01/documents/1_final_risk_evaluation_for_c.i._pigment_violet_29.pdf.*
2. Executive Order 13990. Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis. **Federal Register**. 86 FR 7037, January 25, 2021.
3. Executive Order 13985. Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. **Federal Register**. 86 FR 7009, January 25, 2021.
4. Executive Order 14008. Tackling the Climate Crisis at Home and Abroad. **Federal Register**. 86 FR 7619, February 1, 2021.
5. Presidential Memorandum. Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking. **Federal Register**. 86 FR 8845, February 10, 2021.
6. EPA. Proposed Rule; Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act.

Federal Register. 82 FR 7562, January 18, 2017 (FRL–9957–75).
7. EPA. Final Rule; Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act. **Federal Register**. 82 FR 33726, July 20, 2017 (FRL–9964–38).
8. EPA. Summary of External Peer Review and Public Comments and Disposition for C.I. Pigment Violet 29 (PV29) (Anthra[2,1,9-def:6,5,10-d′e′f′]diisoquinoline-1,3,8,10(2H,9H)-tetrone). January 2021. *https://www.regulations.gov/document/EPA-HQ-OPPT-2018-0604-0126.*

Authority: 15 U.S.C. 2601 *et seq.*

Michael S. Regan,

Administrator.

[FR Doc. 2022–04672 Filed 3–4–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2018–0443; FRL–8850–02–OCSPP]

Octamethylcyclotetra-siloxane (D4); Final Scope of the Risk Evaluation To Be Conducted Under the Toxic Substances Control Act (TSCA); Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Toxic Substances Control Act (TSCA) and implementing regulations, EPA is announcing the availability of the final scope of the risk evaluation to be conducted for octamethylcyclotetra-siloxane (D4) (Cyclotetrasiloxane, 2,2,4,4,6,6,8,8-octamethyl-; Chemical Abstracts Service Registry Number (CASRN) 556–67–2), a chemical substance for which EPA received a manufacturer request for risk evaluation. The scope document includes the conditions of use, hazards, exposures, and the potentially exposed or susceptible subpopulations that EPA plans to consider in conducting the risk evaluation for this chemical substance.

ADDRESSES: The docket, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0443, is available online at *https://www.regulations.gov* or in-person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is open to visitors by appointment only. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Bethany Masten, Existing Chemical Risk Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency (Mailcode 7404T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8803; email address: *masten.bethany@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to entities that manufacture (including import) a chemical substance regulated under TSCA (*e.g.,* entities identified under North American Industrial Classification System (NAICS) codes 325 and 324110). The action may also be of interest to chemical processors, distributors in commerce, and users; non-governmental organizations in the environmental and public health sectors; state and local government agencies; and members of the public. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities and corresponding NAICS codes for entities that may be interested in or affected by this action.

B. What is the Agency's authority for taking this action?

The final scope document is issued pursuant to TSCA section 6(b)(4)(D) and TSCA implementing regulations at 40 CFR 702.41(c)(8).

C. What action is the Agency taking?

EPA is publishing the final scope of the risk evaluation for D4 under TSCA. Through the risk evaluation process, EPA will determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use, in accordance with TSCA section 6(b)(4).

II. Background

TSCA allows chemical manufacturers to request an EPA-conducted risk evaluation of a chemical substance under 40 CFR 702.37. On March 19, 2020, EPA received a manufacturer request for a risk evaluation of D4 (Ref. 1). On June 17, 2020, EPA opened a 45-day public comment period to gather information relevant to the requested risk evaluation. EPA granted the request on October 6, 2020, and subsequently initiated the scoping process for the risk evaluation for this chemical substance. Pursuant to 40 CFR 702.41(c)(7), EPA announced the availability of and sought public comment on the draft scope document for the risk evaluation to be conducted for D4 under TSCA (86 FR 50347, September 8, 2021) (FRL–8850–01–OCSPP) (Ref. 2).

The purpose of risk evaluation is to determine whether a chemical substance, or category of chemical substances, presents an unreasonable risk of injury to health or the environment, under the conditions of use, including an unreasonable risk to a relevant potentially exposed or susceptible subpopulation (15 U.S.C. 2605(b)(4)(A)). As part of this process, EPA must evaluate both hazards and exposures for the conditions of use; describe whether aggregate or sentinel exposures were considered and the basis for consideration; not consider costs or other nonrisk factors; take into account, where relevant, likely duration, intensity, frequency, and number of exposures and describe the weight of the scientific evidence for hazards and exposures (15 U.S.C. 2605(b)(4)(F)). This process will culminate in a determination of whether the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use (15 U.S.C. 2605(b)(4)(A); 40 CFR 702.47).

III. Information and Comments Received on the Draft Scope

In the **Federal Register** of September 8, 2021 (Ref. 2), EPA announced the availability of the draft scope document for the risk evaluation to be conducted for D4 under TSCA and invited public comments on EPA's draft scope document, including additional data or information relevant to the chemical substance or that otherwise could be useful to the Agency in finalizing the scope of the risk evaluation. To the extent that comments provided information on conditions of use, as well as other elements of the draft scope document, those comments and other submitted information (*e.g.,* relevant studies, assessments, information on degradation products, and information on conditions of use) were used to inform revisions to the draft scope document and may be considered in

subsequent phases of the risk evaluation process.

EPA received six unique submissions for D4, including comments from potentially affected businesses or trade associations, environmental and public health advocacy groups, and one member of the general public.

Comments addressed the overall approach to the risk evaluation process (*e.g.,* collection, consideration, and systematic review of relevant information), the specific elements of the scope document (*e.g.,* hazard, exposure, and potentially exposed or susceptible subpopulations), information specific to the chemical substance (*e.g.,* relevant studies, assessments, degradation products, and conditions of use), and topics beyond the draft scope document phase of the process (*e.g.,* risk management). EPA considered those comments, as applicable and appropriate, in developing the final scope document. Concurrently with the publication of the final scope document, EPA is publishing a response to comments document that contains a comprehensive summary of and response to public comments received on the D4 draft scope document. The comprehensive response to comments document is available in the docket EPA–HQ–OPPT–2018–0443 (Ref. 3).

IV. References

The following is a listing of the documents that are specifically referenced in this **Federal Register** notice. The docket for this action includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket. For assistance in locating these referenced documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Octamethylcyclotetra-Siloxane (D4); Manufacturer Request for Risk Evaluation Under the Toxic Substances Control Act (TSCA); Notice of Availability and Request for Comments. **Federal Register**. (85 FR 36586, June 17, 2020) (FRL–10010–49).
2. EPA. Octamethylcyclotetra-Siloxane (D4); Draft Scope of the Risk Evaluation to be Conducted Under the Toxic Substances Control Act (TSCA); Notice of Availability and Request for Comments. **Federal Register**. (86 FR 50347, September 8, 2021) (FRL–8850–01–OCSPP).
3. EPA. EPA Response to Public Comments Received on the Draft Scope of the Risk Evaluation for Under the Toxic Substances Control Act (TSCA) for Octamethylcyclotetra-siloxane (Cyclotetrasiloxane, 2,2,4,4,6,6,8,8-octamethyl-) (D4) CASRN 556–67–2 (March 2022).

Authority: 15 U.S.C. 2601 *et seq.*

Michael S. Regan,

Administrator.

[FR Doc. 2022–04676 Filed 3–4–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 22–76; FCC DA 22–187; FR ID 74348]

Application of The Marion Education Exchange for Renewal of License for Station WWGH–LP, Marion, Ohio

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture (Order) commences a hearing to determine whether The Marion Education Exchange (MEE) has committed violations of the Communications Act of 1934, as amended (Act) and/or the rules and regulations (Rules) of the Federal Communications Commission (Commission), and, as a consequence, whether MEE's application (Renewal Application) to renew the license of low power FM radio station WWGH–LP, Marion, Ohio (Station) should be granted or denied pursuant to section 309(k) of the Act, and whether a forfeiture should be imposed against MEE.

DATES: Persons desiring to participate as parties in the hearing shall file a petition for leave to intervene not later than April 6, 2022.

ADDRESSES: File documents with the Office of the Secretary, Federal Communications Commission, 45 L Street NE, Washington, DC 20554, with a copy mailed to each party to the proceeding. Each document that is filed in this proceeding must display on the front page the docket number of this hearing, ''MB Docket No. 22–76.''

FOR FURTHER INFORMATION CONTACT: Albert Shuldiner, Media Bureau, (202) 418–2721.

SUPPLEMENTARY INFORMATION: This is a summary of the Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture (Order), MB Docket No. 22–76, FCC DA 22–187, adopted and released February 23, 2022. The full text of the Order is available online by using the search function for MB Docket No. 22–76 on the Commission's ECFS web page at *http://apps.fcc.gov/ecfs/.*

Summary of the Order

1. MEE was registered with the State of Ohio as a non-profit corporation on May 2, 2019, with Shawn Craft as the registered agent. On May 9, 2019, MEE and Marion Midget Football (MMF)—the Station's former licensee—filed an application for Commission consent to the *pro forma* assignment of the Station's license from MMF to MEE (Assignment Application). Therein, MEE indicated that ''[t]here are no changes in the board members, only the name of the licensee.'' MEE listed Patti Worcester (Worcester), Martha Maniaci (Maniaci), Mary Ann Stolarczyk (Stolarczyk), Betty Compton (Compton), and Marge Hazelett (Hazelett) as its board members, and indicated each had 20 percent voting rights. We granted the unopposed Assignment Application on May 21, 2019. In the course of this license renewal proceeding, we have learned that Compton died on November 7, 2016, more than two years before MEE filed the Assignment Application that listed her as one of five existing and continuing members of MEE's board.

2. On May 28, 2019, MEE filed a *pro forma* transfer of control application (Transfer Application). MEE reported that ''Worcester has decided to retire and voluntarily transfers her position to Shawn Craft.'' We granted the unopposed Transfer Application on July 11, 2019.

3. On June 6, 2020, MEE filed the Renewal Application. Spencer Phelps (Phelps) then filed an Informal Objection. Phelps alleged that MEE had misrepresented its board composition in the Assignment Application. Phelps stated that the board members of MEE were ''completely different people'' than those MEE listed in the Assignment Application, and argued that MEE's statement in that application that there were ''no changes in the board members, only the name of the licensee'' was false. To support his claim, Phelps submitted copies of corporate materials that MEE had filed with the State of Ohio. The corporate materials did not list Worcester, Maniaci, Stolarczyk, Compton, or Hazelett, the names listed in the Assignment Application. Instead, they listed four different individuals: Shawn Craft (Craft), Linda Sims (Sims), Glenn Coble (Coble), and Terry Tackett (Tackett).

4. MEE did not respond to the Informal Objection. Accordingly, we

sent the first of three letters of inquiry (First LOI) to MEE in December of 2020.

5. The First LOI requested information regarding MEE's board, and its officers and directors, and directed MEE to submit copies of all corporate materials related to its board composition, or the appointment, resignation or termination of MEE officers or directors. It also required MEE to provide an affidavit or declaration made under penalty of perjury in support of its response.

6. The LOI directed MEE to respond no later than January 7, 2021. MEE did not meet this deadline. Thus, on February 12, 2021, we dismissed the Renewal Application, cancelled the Station's license, and informed MEE that its authority to operate the Station had terminated. On February 16, 2021, MEE filed a pleading (First LOI Response) that served as both a petition for reconsideration of the actions taken on February 12, 2021, and a response to the First LOI. Upon receipt of this pleading, we reinstated the Renewal Application and reinstated the license.

7. In the First LOI Response, MEE listed a board that was entirely different from the board it had identified in the Assignment Application. MEE stated that its board consisted of Craft, Sims, Coble, and Tackett, each of whom MEE contends had been on the MEE board from ''2019-Present.'' MEE indicated that Craft also had been its President from ''2019-Present.'' MEE appeared to explain away any inconsistencies between the board it identified in its Assignment Application and the one it identified in its First LOI Response by stating that ''[s]everal of the board members that left [MMF] in 2019 became ill and have since passed away such as . . . Maniaci, and . . . Hazelett.'' However, MEE failed to identify specifically each former MEE board member and the duration of their tenure on the MEE board. MEE then obliquely explained that ''there [sic] positions were filled with members who knew the radio station and have had its best interests and that of the community at heart.'' MEE did not specify whether the positions filled were on its or MMF's board. Furthermore, despite the fact that, like Maniaci and Hazelett, Compton was listed as an MEE board member in the Assignment Application, and despite the fact that Compton preceded Maniaci and Hazelett in death, MEE did not mention Compton in the First LOI Response. MEE did not provide either the documents required to be produced in response to the First LOI, or the supporting affidavit or declaration requested in the First LOI. Finally, MEE asserted that the Station ''has fulfilled the education qualification for LPFM stations very well'' and that the Station is ''the last station in Marion[,] Ohio to provide local news [and] weather every hour.''

8. Phelps replied to the First LOI Response, asserting that it was incomplete, and repeating his allegations that MEE had made misrepresentations to the Commission. Specifically, Phelps argued that MEE had lied either in the Assignment Application, or in the First LOI Response. He also asserted that MEE had made additional false statements in the First LOI Response regarding the Station being the only station in Marion offering hourly news and weather. Finally, Phelps noted that MEE had continued to operate the Station between February 12, 2021, and February 16, 2021, after the cancellation of the license, and before the reinstatement.

9. Having noted the inconsistencies between MEE's statements in the First LOI Response and the Assignment Application, and having identified deficiencies in the First LOI Response, we sent a second letter of inquiry in February of 2021 (Second LOI). The Second LOI directed MEE to provide the information, documentation, and supporting affidavit (or declaration) missing from the First LOI Response. It also noted that, based on the information provided in the First LOI Response, it appeared MEE had made a false statement about its board composition in the Assignment Application. The Second LOI directed MEE to explain ''what basis it had'' for stating in the Assignment Application that the MEE and MMF boards were identical.

10. MEE submitted a response (Second LOI Response), which included one document (its Initial Articles of Incorporation, which are dated April 29, 2019), and a supporting declaration. In its Second LOI Response, MEE stated that it was incorporated in 2019 by Craft, Sims, Coble and Tackett. According to MEE, at the time the Assignment Application was filed on May 9, 2019, ''it was believed and thought that the [MMF] board members would be able to continue in the same capacity.'' The Second LOI Response listed Worcester, Maniaci, Stolarczyk, and Hazelett as ''board members'' but did not specify whether they were board members of MEE, MMF, or both. MEE indicated that Worcester had set a resignation/retirement date for late May 2019. It stated that, on May 29, 2019, MEE's incorporators held a meeting (5–29–19 Meeting) at which they ''decided to form a new board, with Craft serving as President, Sims as Secretary, and Coble and Tackett as board members. According to MEE, this decision was made based on the ''health and age of board members who were coming over from [MMF].'' Like the First LOI Response, the Second LOI Response did not discuss Compton at all.

11. Phelps replied to the Second LOI Response, noting that MEE still had not included all of the information or documents requested. Phelps also highlighted inconsistencies in the information provided by MEE and questioned certain statements made by MEE in the Second LOI Response.

12. Because the Second LOI Response raised more questions than it answered, we sent a third and final letter of inquiry in March of 2021 (Third LOI). The Third LOI again requested that MEE provide the missing information. It also directed MEE to clarify statements made in the Second LOI Response.

13. MEE submitted a response (Third LOI Response), which purports to list all current and former MEE board members (and the specific dates on which each member served on the MEE board). MEE also submitted copies of bylaws, a document recording the appointment of MEE's initial board, and meeting minutes. MEE now indicates that Worcester sat on its board from April 29, 2019, until May 28, 2019, and Maniaci, Stolarczyk and Hazelett were on the board from April 29, 2019, to May 29, 2019. MEE states that the initial board was ''chosen by vote of the incorporators'' and that, to MEE's knowledge, no person served on the MEE and MMF boards at the same time. MEE notes that Worcester chose to resign/retire from MEE on May 28, 2019, and that Craft took over her position as President of MEE on that date as set forth in the MEE bylaws. MEE states that Maniaci, Stolarczyk, and Hazelett were invited to participate in the 5–29–19 Meeting but did not because ''their health was failing.'' MEE explains that they resigned from the MEE board effective May 29, 2019, because they ''could not attend meetings on a regular basis.'' MEE reports that, at the 5–29–19 Meeting, the incorporators ''voted on who would fill'' the vacant board seats. According to MEE, this was done as specified in its bylaws. In terms of Compton, MEE explains that she ''had passed away'' prior to the 5–29–19 Meeting, but avoids specifying the date of Compton's death and does not address the Third LOI's question as to why MEE did not list Compton as an initial board member in the Second LOI Response. MEE states that ''her successor had not been chosen at that time'' (apparently meaning after her

death but prior to the 5–29–19 Meeting). MEE indicates that, ''when the transfer was being filed with the FCC [Compton's death] was pointed out to an FCC representative.'' According to MEE, the Commission representative ''explained that a certain percentage of board members had to change for this to be an issue as it would not [a]ffect the voting quorum.'' MEE states that it did not file a pro forma transfer of control application regarding the board changes made at the 5–29–19 Meeting, ''because we had hoped that some of the original board members might have been able to return.''

14. Phelps replied to the Third LOI Response, accusing MEE of lying to the Commission about Compton, and about the existence of certain corporate documents like bylaws and meeting minutes.

15. Section 309(k) of the Act, 47 U.S.C. 309(k), provides that the Commission shall renew a station's license if it finds that during the previous license term: (a) The station served the public interest, convenience, and necessity; (b) there were no serious violations by the licensee of the Act or the Rules; and (c) there have been no other violations by the licensee of the Act or Rules which, taken together, would constitute a pattern of abuse. If a licensee has not met these requirements, the Commission may deny the licensee's application to renew its station's license, or grant the application on such terms and conditions as are appropriate, including a short-term renewal. Prior to denying a renewal application, the Commission must provide notice and opportunity for a hearing conducted in accordance with section 309(e) of the Act, 47 U.S.C. 309(e), and consider whether any mitigating factors justify the imposition of lesser sanctions.

16. The Commission and the courts have recognized that ''[t]he FCC relies heavily on the honesty and probity of its licensees in a regulatory system that is largely self-policing.'' Full and clear disclosure of all material facts in every application (or response to a Commission request for information) is essential to the efficient administration of the Commission's licensing process, and the Commission's proper analysis of an application is critically dependent on the accuracy and completeness of information and data that only the applicant can provide. Misrepresentation and lack of candor raise serious concerns as to the likelihood that the Commission can rely on an applicant, permittee, or licensee to be truthful. Thus, misrepresentation and lack of candor constitute the types of serious violations of the Rules that may be grounds for denying a license renewal application.

17. Section 1.17(a)(1) of the Rules, 47 CFR 1.17(a)(1), provides that no person shall, in any written or oral statement of fact, ''intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is being made from being incorrect or misleading.'' A misrepresentation (a false statement of fact or false certification made with intent to deceive the Commission) is within the scope of section 1.17. Similarly, lack of candor (a concealment, evasion, or other failure to be fully informative, accompanied by an intent to deceive the Commission) is within the scope of the rule. A necessary and essential element of both misrepresentation and lack of candor is intent to deceive. Intent to deceive can be found where a licensee or applicant knowingly makes a false statement (or false certification), and can also be found from motive or logical desire to deceive, or when the surrounding circumstances clearly show the existence of intent to deceive.

18. Section 1.17(a)(2) of the Rules, 47 CFR 1.17(a)(2), further requires that no person may provide, in any written statement of fact, ''material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.'' Thus, even absent an intent to deceive, an incorrect statement regarding material factual information (or an omission of such information) may constitute an actionable violation of section 1.17 of the Rules if the statement (or omission) was made without a reasonable basis for believing that the material factual statement was correct and not misleading.

19. Failure to Submit Full and Complete Responses to LOIs. We find there is a substantial and material question of fact as to whether MEE violated section 73.1015 of the Rules, 47 CFR 73.1015. That Rule states: ''The Commission or its representatives may, in writing, require from any applicant, permittee, or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or to a determination whether a license should be revoked, or to any other matter within the jurisdiction of the Commission.'' It is important that licensees (and applicants and permittees) fully respond to Commission requests for information, and do so in a timely manner. The failure to do so impedes the Commission's ability to carry out its responsibilities.

20. The First LOI made a straightforward request for a list of all MEE board members and officers, present and past, and the dates each person served on the board or as an officer. Despite the clarity and simplicity of the request, and despite the fact that MEE clearly was in possession of this information, MEE submitted a list of only its current board members and officers, and specified only the year (as opposed to the month, day, and year) in which these individuals were installed as board members and/or officers. Further, MEE did not submit any documentation related to its board composition, or the installation and removal of its board members and officers. MEE also did not submit the supporting affidavit or declaration required by the First LOI.

21. The Second LOI again requested that MEE identify all individuals who had served as officers and directors of MEE since it was first incorporated. It again specified that MEE ''must also state the position or positions the person held, and the dates on which the person held those positions.'' In addition, it offered the guidance that ''if John Doe was an officer or director of MEE, [MEE] would list his name and then identify the position that he held and when he held it (*i.e.,* Vice President from January 1, 2019, to December 31, 2020).'' Even though the Second LOI included this specific guidance and even though it noted that, based on the First LOI Response, it appeared MEE had made false statements to the Commission, MEE submitted a Second LOI Response that contained oblique and unclear language regarding its board composition.

22. The Third LOI directed MEE ''to explain why Compton—who is listed as an MMF and MEE board member in the Assignment Application—is not included in its list'' of board members who supported the changes made to the MEE board membership on May 29, 2019. MEE also was instructed to ''indicate whether Compton was an MEE board member on May 29, 2019.'' In the Third LOI Response, MEE stated that Compton ''had passed away'' prior to the 5–29–19 Meeting, but avoided specifying the date of Compton's death and did not explain why MEE did not list Compton as an initial board member in the Second LOI Response.

23. There are substantial and material questions of fact regarding whether MEE submitted incomplete responses to the

First, Second, and Third LOIs in willful and repeated violation of section 73.1015 of the Rules. We therefore designate appropriate issues to determine whether MEE submitted incomplete responses to these three LOIs in willful and repeated violation of the Rules.

24. Misrepresentation and/or Lack of Candor. In addition, we find that there are substantial and material questions of fact regarding whether MEE violated section 1.17(a)(1) (or violated section 1.17(a)(2)) when it listed Worcester, Maniaci, Stolarczyk, and Hazelett as MEE's board members in the Assignment Application. We note that the MEE board members listed in the Assignment Application were not those listed in the First LOI Response or in the materials filed with the State of Ohio upon MEE's formation, and MEE's explanation for this discrepancy has changed over time. Moreover, as noted below, questions have arisen regarding the authenticity of the materials that MEE submitted to support its claim that Worcester, Maniaci, Stolarczyk, and Hazelett were members of the MEE board in May 2019.

25. We further find that there are substantial and material questions of fact regarding whether MEE's listing of Compton as a board member in the Assignment Application constituted a misrepresentation in violation of section 1.17(a)(1), or a violation of section 1.17(a)(2). We note that, at the time MEE filed the Assignment Application, MEE appears to have been aware that Compton had passed away. We find that this raises questions as to whether MEE listed Compton as a board member in the Assignment Application in order to deceive the Commission. It also suggests that, at a minimum, MEE may have lacked a reasonable basis for believing that its inclusion of Compton in the list of MEE board members was correct and not misleading. We note that, even if, as MEE claims, it pointed Compton's death out to an ''FCC representative,'' MEE did not do so prior to filing the Assignment Application, nor has it adequately explained why the Assignment Application nevertheless listed Compton as a board member of MMF and MEE.

26. A substantial and material question of fact also exists regarding whether MEE lacked candor in violation of section 1.17(a)(1) (or violated section 1.17(a)(2)) when it failed to disclose Compton's death in the First and Second LOI Responses, and failed to divulge the date of Compton's death in the Third LOI Response. Given that MEE divulged the deaths of Maniaci and Hazelett in the First LOI Response and indicated they had passed away at some point after May 29, 2019, it appears MEE intentionally avoided mentioning Compton in the First LOI Response and did so again in the Second LOI Response. Further evidence of MEE's apparent intent to deceive the Commission can be found in the Third LOI Response. Therein, despite being instructed to address Compton's involvement with MEE, MEE only acknowledged Compton's passing, and avoided stating when Compton had passed away or acknowledging that Compton had never been involved with MEE. We assume that MEE believed it was in its interest to mislead the Commission about Compton's death because, by revealing that Compton passed away in 2016, MEE would have made clear to the Bureau that it had engaged in misrepresentation and lack of candor in the Assignment Application and its LOI Responses.

27. Moreover, there is a substantial and material question of fact regarding whether MEE violated section 1.17(a)(1) by fabricating the materials it submitted with the Third LOI Response in a post hoc attempt to provide evidence supporting the version of events set forth therein. We find it suspicious that MEE did not submit these materials with its earlier LOI Responses, particularly the Second LOI Response (which did include some documentation). If, as we suspect, the bylaws and meeting minutes did not exist at the time MEE submitted its earlier LOI Responses, that would explain why MEE did not include them with those responses, and why, in the Second LOI Response, MEE stated it had provided all materials in its possession. While MEE states in the Third LOI Response that it omitted these materials from its earlier responses because it was ''not aware that the FCC wanted to see them,'' we find this explanation unconvincing. The first two LOIs clearly required such documents to be produced, and MEE never indicated any confusion over what was required in its responses to those LOIs.

28. Finally, there is a substantial and material question of fact regarding whether, as Phelps alleges, MEE falsely stated that the Station is the ''last station'' in Marion, Ohio, providing local news and weather to listeners every hour. Phelps states that, contrary to MEE's statement, another three stations (WMRN(AM), WMRN–FM, and WYNT–FM) licensed to the community of Marion provide local news and weather every hour, and an additional two stations (WDIF–LP, and WZMO–LP) licensed to Marion provide ''weather every hour and local programming throughout their broadcast days.'' MEE has offered no evidence demonstrating that Phelps' statement is incorrect. However, we note that WYNT–FM actually is licensed to Caledonia, Ohio. The other four stations, though, are licensed to Marion, and, of those, at least one (WZMO–LP) provides hourly news and weather updates. Accordingly, we conclude that it appears MEE knowingly provided false information to the Bureau in order to bolster its argument that the Station's license should be renewed.

29. We note that Phelps made one additional allegation that MEE had made a false statement, but find that Phelps did not raise a substantial and material question of fact regarding this allegation. Specifically, Phelps alleged that MEE made a false statement in the Transfer Application regarding why Worcester resigned from the MEE board. MEE stated that Worcester's resignation was voluntary, but Phelps alleged it was not, citing an Assurance of Discontinuance that Worcester (and Spears and MMF) entered into with the Ohio Attorney General. Because the Assurance of Discontinuance was related to Worcester's involvement with MMF, not MEE, we find it is not probative of whether Worcester voluntarily resigned from the MEE board. Phelps has submitted no other information to support his allegation that Worcester's resignation from the MEE board was not voluntary. Therefore, we find he has not raised a substantial and material question of fact that requires further investigation.

30. To summarize, MEE appears to have misrepresented its board composition in the Assignment Application. Then, when we inquired about its board composition, MEE offered different and, at times inconsistent, explanations. This, in turn, reinforced our initial concern that MEE knowingly submitted false information in the Assignment Application, and engendered additional concerns that, in an attempt to cover up its original misrepresentation, MEE made additional misrepresentations to, or lacked candor with, the Commission in the LOI Responses. Our concerns about whether MEE is capable of honesty in future dealings with the Commission are further bolstered by MEE's apparent false statement regarding its programming being unique in its community of license.

31. Failure to File Required Form. We find that a question of fact exists regarding whether MEE intentionally chose not to notify the Commission that a *pro forma* transfer of control of MEE occurred in May 2019. If, as MEE asserts

in the LOI Responses, its entire board turned over between May 28, and May 29, 2019, then MEE should have filed a *pro forma* transfer of control application within 30 days of this event. It did not do so despite the fact that it was aware of the need to file such an application based both on the conversation with an ''FCC representative'' that it mentions in the Third LOI Response, and based on the fact that it filed an unnecessary *pro forma* transfer of control application when Worcester allegedly resigned as President and board member on May 28, 2019, and Craft allegedly took her place as President. MEE admits as much in the Third LOI Response. Thus, a question of fact exists regarding whether MEE intentionally chose not to notify the Commission. We find that this question of fact is both substantial and material, and thus should be examined in the hearing proceeding. We reach this conclusion because, if MEE intentionally ignored the notice requirement set forth in section 73.865, that would demonstrate a propensity for ignoring Commission rules and requirements, and could render serious a rule violation that might otherwise be considered minor.

32. Unauthorized Operations. We reject Phelps' argument that MEE violated section 301 of the Act, which prohibits any person from transmitting signals by radio ''except under and in accordance with this chapter and with a license . . . granted under the provisions of this chapter.'' Phelps argues that MEE violated section 301 of the Act because it lacked authority to operate the Station between February 12, 2021 (when we dismissed the Renewal Application), and February 16, 2021 (when we returned the Renewal Application to pending status), but kept the Station on the air. However, Phelps ignores section 307(c)(3) of the Act, 47 U.S.C. 307(c)(3), which applies to renewal applications and provides that, ''[p]ending any administrative or judicial hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405 or section 402 of [the Act], the Commission shall continue such license in effect.'' Because there had been no final decision regarding the Renewal Application, the Station's license continued in effect, and no unauthorized operation occurred between February 12, and 16, 2021.

33. Restricted Proceeding. This hearing proceeding is a ''restricted'' proceeding pursuant to section 1.1208 of the Rules, 47 CFR 1.1208, and thus *ex parte* presentations to or from Commission decision-making personnel, including the presiding officer and her staff and Bureau staff, are prohibited, except as otherwise provided in the Rules.

34. Electronic Filing of Documents. All pleadings in this proceeding, including written submissions such as letters, discovery requests and objections and written responses thereto, excluding confidential and/or other protected material, must be filed in MB Docket No. 22–76 using ECFS. ECFS shall also act as the repository for records of actions taken in this proceeding, excluding confidential and/or other protected material, by the presiding officer and the Commission. Documents responsive to any party's requests for production of documents should not be filed on ECFS. Such responsive documents shall be served directly on counsel for the party requesting the documents and produced either in hard copy or in electronic form (*e.g.,* hard drive, thumb drive) with files named in such a way as it is clear how the documents are organized.

35. Case Caption. The caption of any pleading filed in this proceeding, as well as all letters, documents, or other written submissions including discovery requests and objections and responses thereto, shall indicate whether it is to be acted upon by the Commission or the presiding officer. The presiding officer shall be identified by name.

36. Electronic service on the Enforcement Bureau shall be made using the following email address: *EBHearings@fcc.gov.*

37. *Accordingly, it is ordered* that, pursuant to sections 309(e), and 309(k) of the Communications Act of 1934, as amended, and section 1.221(a) of the Commission's Rules, 47 CFR 1.221(a), the captioned application of The Marion Education Exchange for renewal of license of station WWGH–LP, Marion, Ohio, *is designated for hearing* in a proceeding before the FCC Administrative Law Judge, at a time and place to be specified in a subsequent order, upon the following issues:

(a) To determine whether The Marion Education Exchange violated section 73.1015 of the Commission's rules, 47 CFR 73.1015, by failing to fully and completely respond to Commission letters of inquiry.

(b) To determine whether The Marion Education Exchange violated section 1.17 of the Commission's rules, 47 CFR 1.17, by making misrepresentations to, and/or lacking candor with, the Commission both in the application for consent to assignment of the license of WWGH–LP, Marion, Ohio, and in its responses to letters of inquiry sent by the Media Bureau on December 8, 2020, February 17, 2021, and March 30, 2021.

(c) To determine whether The Marion Education Exchange violated section 73.865 of the Commission's rules, 47 CFR 73.865, by failing to notify the Commission of the pro forma transfer of control that appears to have occurred on May 29, 2019, and, if so, whether it did so intentionally.

(d) To determine, in light of the evidence adduced pursuant to the specified issues, if the captioned application for renewal of license for station WWGH–LP should be granted.

38. *It is further ordered* that, in addition to resolving the foregoing issues, the hearing shall determine, pursuant to section 503(b)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 503(b)(1), whether an *order of forfeiture* should be issued against The Marion Education Exchange in an amount not to exceed the statutory limit of $55,052 for each violation (or each day of a continuing violation) of each Commission rule section above for which the statute of limitations in section 503(b)(6) of the Communications Act of 1934, as amended, 47 U.S.C. 503(b)(6), has not lapsed.

39. *It is further ordered* that, in connection with the possible forfeiture liability noted above, this document constitutes notice pursuant to section 503(b)(4) of the Communications Act of 1934, as amended, 47 U.S.C. 503(b)(4).

40. *It is further ordered* that, pursuant to sections 309(e), 309(k), 312(c) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e), 309(k), 312(c), and section 1.221(c) of the Commission's Rules, 47 CFR 1.221(c), in order to avail itself of the opportunity to be heard and the right to present evidence at a hearing in this proceeding, The Marion Education Exchange, itself or by its attorney, *shall file* with the Commission, within 20 calendar days of the mailing of this Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture, a written appearance stating its intention to appear at the hearing and present evidence on the issues specified above.

41. *It is further ordered* that pursuant to section 1.221(c) of the Commission's Rules, if The Marion Education Exchange fails to file a written appearance within the time specified above, or has not filed prior to expiration of that time a petition to dismiss without prejudice, or a petition to accept, for good cause shown, such written appearance beyond expiration of said 20 days, the pending application will be dismissed with prejudice for failure to prosecute.

42. *It is further ordered* that, pursuant to section 1.221(d) of the Commission's rules, 47 CFR 1.221(d), the Chief, Enforcement Bureau, *is made a party* to this proceeding without the need to file a written appearance.

43. *It is further ordered* that, in accordance with section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e), and section 1.254 of the Commission's Rules, 47 CFR 1.254, the burden of proceeding with the introduction of evidence and the burden of proof with respect to the issues listed above *shall be* upon The Marion Education Exchange.

44. *It is further ordered* that a copy of each document filed in this proceeding subsequent to the date of adoption of this Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture *shall be served* on the counsel of record appearing on behalf of the Chief, Enforcement Bureau. Parties may inquire as to the identity of such counsel by calling the Investigations & Hearings Division of the Enforcement Bureau at (202) 418–1420. Such service copy *shall be addressed* to the named counsel of record, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

45. *It is further ordered,* that The Marion Education Exchange, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. 311(a)(2), and section 73.3594 of the Commission's Rules, 47 CFR 73.3594, *shall give notice* of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as mandated by section 73.3594 of the Commission's Rules.

46. *It is further ordered* that a copy of this Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture shall be sent via Certified Mail, Return Receipt Requested, and by regular first-class mail to The Marion Education Exchange, PO Box 43302, Marion, OH 43302, and Shawn Craft, 1366 Montego Drive, Marion, OH 43302.

47. *It is further ordered* that the Secretary of the Commission shall cause to have this Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture, or a summary thereof published in the **Federal Register**.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

[FR Doc. 2022–04757 Filed 3–4–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1185; FR ID 74457]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before May 6, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the time period allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1184.

Title: Sections 1.946(d), 27.10(d), 27.12, 27.14 and 27.17, Service Rules for the Advanced Wireless Services H Block—Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands—R&O, FCC 13–88.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1 respondent; 352 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement and at the end of the license term for incumbent licensees.

Obligation to Respond: Statutory authority for this collection are contained in sections 15 U.S.C. 79 *et seq.;* 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), 309, 310, 1404, and 145.

Total Annual Burden: 352 hours.

Total Annual Cost: No cost.

Needs and Uses: On June 27, 2013, the FCC adopted: *Service Rules for the Advanced Wireless Services H Block—Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands,* WT Docket 12–357, Report and Order, 28 FCC Rcd 9483 (2013) (*H Block R&O*). The *H Block R&O* adopted service rules for the H Block and makes available 10 MHz of paired spectrum for flexible use in accordance with the Middle Class Tax Relief and Job Creation Act of 2012. The *H Block R&O* contained the following information collection requirements which have already been approved by OMB.

For the purpose of this collection, a winning bidder of H Block spectrum must comply with each of the following rule sections:

(a) Section 1.946(d) requires H Block licensees to file a construction notification and certify that they have met the applicable performance benchmarks.

(b) Section 27.10(d) requires an H Block licensee to notify the Commission within 30 days if it changes, or adds to, the carrier status on its license.

(c) Section 27.12 requires H Block licensees to comply with certain eligibility reporting requirements.

(d) Section 27.14 requires H Block licensees to file license renewal applications. Included in the application should be a detailed description of: (1) The level and quality of service provided by the applicant; (2) the date service commenced; (3) whether service was ever interrupted; (4) the duration of any interruption or outage; (5) the extent to which service is provided to rural areas; (6) the extent to which service is provided to qualifying Tribal lands; and (7) any other factors associated with the level of service to the public.

(e) Section 27.17 requires H Block licensees to notify the Commission within ten days if they permanently discontinue service by filing FCC Form 601 or 605 and requesting license cancellation.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2022–04660 Filed 3–4–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than March 22, 2022.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org*:

1. *Kerry Dale Cundiff, Connie Sue Cundiff, Green River Building Supply, Danny Jeffries, Barbara Ann Rousey Jeffries Jennifer Lynnelle Rousey, Robert Taylor Rousey, the Robert Rousey Farm Trust and the Napier Cemetery Trust, Robert Barry Rousey, individually, and as trustee to both trusts, all of Liberty, Kentucky;* to retain voting shares of Casey County Bancorp, Inc., and thereby indirectly retain voting shares of Casey County Bank, Inc., both of Liberty, Kentucky.

B. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *David Tribble, as general partner of Tribble Family Partners, L.P., both of Unionville, Missouri;* a member of the Tribble Family Group, a group acting in concert, to retain voting shares of Northern Missouri Bancshares, Inc., and thereby indirectly retain voting shares of Farmers Bank of Northern Missouri, both of Unionville, Missouri; Exchange Bank of Missouri, Fayette, Missouri; and Concordia Bank, Concordia, Missouri. David Tribble was previously approved by the Federal Reserve as a member of the Tribble Family Group.

2. *The L. Dale Sprague Irrevocable Family Trust Agreement under agreement dated December 31, 2020, M. Janice Sprague, as trustee, and the M. Janice Sprague Irrevocable Family Trust Agreement under agreement dated December 31, 2020, L. Dale Sprague, as trustee, all of Blue Mound, Kansas; and Lonnie D. Sprague, Kincaid, Kansas;* to become members of the Sprague Family Group, a group acting in concert, to retain voting shares of Dale Sprague Enterprise, Inc., and thereby indirectly retain voting shares of The Farmers State Bank of Blue Mound, both of Blue Mound, Kansas. L. Dale Sprague was previously approved by the Federal Reserve as a member of the Sprague Family Group.

C. Federal Reserve Bank of San Francisco (Sebastian Astrada, Director, Applications) 101 Market Street, San Francisco, California 94105–1579:

1. *Joseph E. Matranga, Jr., Rancho Santa Fe, California, and Nathan Rogge, La Jolla, California;* to acquire additional voting shares of Friendly Hills Bancorp, and thereby indirectly acquire voting shares of Friendly Hills Bank, both of Whittier, California.

Board of Governors of the Federal Reserve System, March 2, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–04767 Filed 3–4–22; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than April 6, 2022.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Midwest Community Bancshares, Inc., Marion, Illinois*; to acquire The Bank of Carbondale, Carbondale, Illinois.

B. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Climate First Bancorp, Inc., Winter Park, Florida;* to become a bank holding company by acquiring Climate First Bank, St. Petersburg, Florida.

C. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Banner County Ban Corporation Employee Stock Ownership Plan and Trust, Harrisburg, Nebraska;* to indirectly acquire Bankers Capital Corporation, and its subsidiary bank, Lusk State Bank, both of Lusk, Wyoming. Banner County Ban Corporation Employee Stock Ownership Plan and Trust owns Banner County Ban Corporation, Harrisburg, Nebraska, which will merge with Bankers Capital Corporation.

Board of Governors of the Federal Reserve System, March 2, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–04766 Filed 3–4–22; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[Notice–ME–2022–01; Docket No. 2022–0002; Sequence No. 1]

Notice of GSA Live Webinar Regarding Data Center Sustainability

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Virtual meeting notice.

SUMMARY: GSA is hosting a Data Center Sustainability Summit to obtain information from federal and industry communities. The summit focuses on the energy, environment, and infrastructure benefits that result from IT modernization and a transition from government-owned data centers to commercially-owned facilities, cloud computing, or software-as-a-service that can help the Federal Government reach its sustainability goals.

DATES: Wednesday, April 6 and Thursday, April 7, 2022, at 10:00 a.m., Eastern Daylight Time (EDT).

ADDRESSES: This is a virtual event and the call-in information will be made available upon registration. All attendees, including industry partners, must register for the ZoomGov event here: *https://gsa.zoomgov.com/webinar/register/9816439918053/WN_KkzAepS7TXCqg7gEvcUXRA*.

Members of the press, in addition to registering for this event, must also RSVP to *press@gsa.gov*.

FOR FURTHER INFORMATION CONTACT: Tom Santucci at *thomas.santucci@gsa.gov* or 202–230–4822.

SUPPLEMENTARY INFORMATION:

Background

The Biden Administration established government-wide sustainability goals in the 2021 Executive Order on Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability (E.O. 14057, located at *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/12/08/executive-order-on-catalyzing-clean-energy-industries-and-jobs-through-federal-sustainability/*) and its accompanying Federal Sustainability Plan (located at *https://www.sustainability.gov/federalsustainabilityplan/index.html*).

The E.O. communicates five government-wide goals for tackling the climate crisis:

- 100 percent carbon pollution-free electricity by 2030
- 100 percent zero-emission vehicle acquisitions by 2035
- Net-zero emissions from federal procurement no later than 2050
- A net-zero emissions building portfolio by 2045
- Net-zero emissions from overall federal operations by 2050

As the current Data Center Optimization Initiative (DCOI) policy (M–21–05, available here: *https://www.whitehouse.gov/wp-content/uploads/2020/11/M-21-05.pdf*) is set to sunset at the end of Fiscal Year 2022, GSA is interested in obtaining information about sustainability best practices for IT infrastructure that could help inform the development of new DCOI metrics.

Format

The Data Center and Cloud Sustainability and Resiliency Summit convenes leaders from the federal government and industry for an educational forum to discuss how adoption of modern IT solutions is critical to the country's transition to clean, zero-emissions technologies. Additionally, this summit seeks to explore these solutions' additional economic and national security benefits. If you have questions for the panelists about their sustainability initiatives and technologies, submit them via email to *dccoi@gsa.gov* by COB March 25th, 2022.

Special Accommodations

For those who need accommodations, ZoomGov will have an option to turn on closed captioning. If additional accommodations are needed, please indicate this on the ZoomGov registration form.

Live Webinar Speakers (Subject To Change Without Notice)

Hosted by

- GSA/Office of Government-wide Policy.

Sponsored by

- Federal Chief Information Officers Council
- Information Technology Industry Council

Also co-sponsored by

- Data Center Coalition

Keynote Speakers

- *Special Guest, TBD*

AGENDA

[Subject to change without notice]

Day 1 Start time	Topic
10:00 a.m	Opening Remarks.
10:05 a.m	Opening Keynote: *Topic TBD.*
10:25 a.m	Panel #1: IT Infrastructure and America's Path to Net-Zero Emissions by 2050.
11:00 a.m	Panel #2: A Mission-First Approach to Leveraging the Cloud.
11:35 a.m	Panel #3: Case Study 1—Data Center CoLo Benefits.
12:00 p.m	Break: Industry Tech Talks.
1:00 p.m	Panel #4: Cloud Computing Benefits to Agency Missions.
1:30 p.m	Panel #5: Cloud Service Providers.
2:10 p.m	Panel #6: Department of Defense.
2:35 p.m	Panel #7: Data Center Sustainability Strategies and Initiatives.
3:00 p.m	Panel #8: Case Study 2—Data Center CoLo Benefits.
3:25 p.m	Panel #9: Powering the Supercomputers of Today.
3:55 p.m	Conclusion Remarks.
4:00 p.m	Day 1 Concludes.

Day 2 Start time	Topic
10:00 a.m	Opening Remarks.
10:05 a.m	Opening Keynote: Topic TBD.
10:20 a.m	Panel #1: Innovation in Data Centers.
10:30 a.m	Panel #2: Revitalizing Underserved Communities with Disruptive Data Center Technologies.
11:05 a.m	Panel #3: "Greening" Federal IT Purchasing.
11:35 a.m	Panel #4: Software as a Service Providers.
12:00 p.m	Break: Industry Tech Talks.
1:00 p.m	Panel #5: Federal Government and the "Green Grid".
1:40 p.m	Roundtable 1: Former Government Leaders on Future Data Center Metrics.
2:40 p.m	Roundtable 2: Industry on Future Data Center Metrics.
3:40 p.m	Closing Keynote.
3:55 p.m	Conclusion Remarks.

Day 2 Start time	Topic
4:00 p.m	Day 2 Concludes.

Thomas Santucci,

GSA IT Modernization Director, General Services Administration.

[FR Doc. 2022–04751 Filed 3–4–22; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—SIP22–006, Dementia Risk Reduction Research Network—Collaborating Centers.

Date: May 10, 2022.

Time: 11:00 a.m.–6:00 p.m., EDT.

Place: Teleconference.

Agenda: To review and evaluate grant applications.

FOR FURTHER INFORMATION CONTACT: Jaya Raman, Ph.D., Scientific Review Officer, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway, Mailstop S107–B, Atlanta, Georgia 30341, Telephone: (770) 488–6511, Email: *JRaman@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04689 Filed 3–4–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–0822; Docket No. CDC–2022–0009]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled, The National Intimate Partner and Sexual Violence Survey (NISVS). NISVS is a surveillance system used to monitor the magnitude of sexual violence, stalking, and intimate partner violence victimization among adults in the U.S.

DATES: CDC must receive written comments on or before May 6, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0009 by either of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

The National Intimate Partner and Sexual Violence Survey (NISVS) (OMB Control No. 0920–0822, Exp. 03/31/2023)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This is a Revision request for the currently approved National Intimate

Partner and Sexual Violence Survey (NISVS) (OMB Control No. 0920–0822, Exp. 03/31/2023). NISVS is a surveillance system used to monitor the magnitude of sexual violence (SV), stalking, and intimate partner violence (IPV) victimization among adults in the U.S. This Revision is being requested to continue collection of this data annually. Data are used by the federal government, states, partner organizations, and stakeholders to inform prevention programs and policies related to SV, stalking, and IPV. Additionally, NISVS data will be used in training programs, peer reviewed journals, technical reports, factsheets and other media. Datasets are made public for external researchers to use as well. NISVS data has also been used in the context of health equity by looking at race and ethnicity and sexual orientation. In 2010, NISVS collected data for the National Institute of Justice (NIJ) to examine IPV, SV, and stalking among American Indian and Alaska Native people. NISVS collected data in 2010, and again in 2016–17 for the Department of Defense (DoD) to understand the prevalence of violence among active-duty women, active-duty men, and the wives of active-duty men.

Continuing to document and monitor the prevalence of IPV, SV, and stalking is a critical step to improving the health of individuals, making communities safer, and reducing the social and healthcare costs currently burdening state and federal governments and programs. NISVS data can be used to inform public policies and prevention strategies and to help guide and evaluate progress towards reducing the substantial health and social burden associated with IPV, SV, and stalking.

The modification in this Revision request is to fully implement the redesigned methodology and questionnaire for full national-level data collection. The redesigned NISVS will use an address-based sampling frame with push-to-web collection and optional call-in telephone option, increasing the response rate, decreasing costs, and reducing respondent burden. NISVS data will be collected using address-based randomized sampling with push-to-web design, whereby respondents will complete the survey on the internet. A call-in telephone option will be available to those who prefer to take the survey by phone.

The subpopulation to be studied is non-institutionalized, English- and Spanish-speaking women and men aged 18 years or older in the United States. Data are analyzed using appropriate statistical software to account for the complexity of the survey design to compute weighted counts, percentages, and confidence intervals using national and state-level data.

CDC requests OMB approval for an estimated total of 7,938 annualized burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Individuals and Households	Letter	15,000	1	6/60	1,500
	Screener	15,000	1	3/60	750
	Web Questionnaire	14,250	1	25/60	5,938
	Phone Questionnaire	750	1	40/60	500
Total					7,938

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–04669 Filed 3–4–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–22–1335]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) submitted the information collection request titled ''CDC's COVID–19 Program for Cruise Ships Operating in U.S. Waters'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on April 30, 2021, to obtain comments from the public and affected agencies. CDC received 20 comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th

Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

CDC's COVID–19 Program for Cruise Ships Operating in U.S. Waters (OMB Control No. 0920–1335, Exp. 4/30/2022)—Extension—National Center for Emerging Zoonotic and Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

As the COVID–19 pandemic has unfolded, this information collection has evolved. CDC's COVID–19 regulatory requirements in the Framework for a Conditional Sailing Order (CSO) expired on January 15, 2022, at 12:01 a.m. EST. CDC is transitioning to a new COVID–19 risk-mitigation program for cruise ships operating in U.S. waters. Cruise ship operators will have the option to participate in this program at their discretion. This program will include recommendations and guidance for cruise ships to continue to operate in a way that provides a safer and healthier environment for crew, passengers, and communities.

Through the implementation of the CSO, CDC has identified best practices for controlling the spread of COVID–19 on cruise ships and has coordinated with cruise ship operators and other stakeholders to implement these measures. CDC remains committed to working with the cruise industry, state, territorial, and local health authorities, and seaport partners to continue to implement these measures.

Cruise ship operators choosing to participate in the CDC's COVID–19 Program for Cruise Ships Operating in U.S. Waters on a voluntary basis agree to follow all recommendations and guidance issued by CDC as part of this program. These recommendations are aimed at further reducing the introduction and spread of SARS–CoV–2 onboard. CDC will work closely with cruise ships opting into the program and continue to monitor compliance with COVID–19 preventive measures and cases onboard these cruise ships through daily enhanced data collection and inspections.

Cruise lines that decide not to participate in CDC's COVID–19 Program for Cruise Ships Operating in U.S. Waters will receive a designation showing that CDC has neither reviewed nor confirmed the cruise ship operator's COVID–19 health and safety protocols. Additionally, these ships will be subject to other CDC orders and regulations to the same extent as other ships and conveyances subject to the jurisdiction of the United States.

The guidance and recommendations included in CDC's COVID–19 Program for Cruise Ships Operating in U.S. Waters are aligned with previous health and safety protocols under the CSO. As such, cruise ship operators who have resumed operations under the CSO will already be familiar with the components of the program, and operators who choose to participate in the program will be able to continue sailing with passengers without interruption.

This information collection request outlines the reporting and document retention requirements that are part of CDC's COVID–19 Program for Cruise Ships Operating in U.S. Waters. Note, many of the data collection elements included in CDC's COVID–19 Program for Cruise Ships are currently approved as part of OMB Package 0920–1335 *Phased Approach to the Resumption of Cruise Ship Passenger Operations,* submitted on April 30, 2021.

CDC will provide cruise ship operators with information about the program and how to contact CDC to opt in or opt out of the program.

Opting Into the COVID–19 Program for Cruise Ships

Cruise lines operating cruise ships in U.S. waters choosing to participate in this program (''opting in'') are requested to notify the CDC in writing of their decision to opt in by February 18, 2022.

Cruise lines choosing to participate in this program will be required to follow all recommendations and guidance as a condition of their participation—*i.e.,* they will not be able to pick and choose which recommendations they follow. Those opting in will continue to receive a color status for cruise ships operating in U.S. waters on CDC's Cruise Ship Color Status web page.

Cruise lines with ships not currently in U.S. waters—but that are expecting to return to U.S. waters after February 18, 2022—are requested to contact CDC via email at least 28 days prior to their ships' arrival. Instructions on how to participate in the program will be provided.

Cruise lines that initially decide to participate in the program but then later decide not to participate should contact CDC via email for instructions.

Opting Out of the COVID–19 Program

Cruise lines operating in U.S. waters choosing not to participate in the program (''opting out'') are requested to notify CDC in writing by February 18, 2022.

Cruise lines that do not notify CDC by 5:00 p.m. ET on February 18, 2022, will be considered to have opted out of this program. Cruise lines that decide to opt out will have any cruise ships operating in U.S. waters listed as ''Gray'' ships on CDC's Cruise Ship Color Status web page. This designation means that CDC has neither reviewed nor confirmed the cruise ship operator's health and safety protocols. Additionally, these ships will be subject to other CDC orders and regulations to the same extent as other ships and conveyances subject to the jurisdiction of the United States.

Cruise lines that initially decide to opt out but later decide to opt into the program should contact CDC via email at least 28 days prior to the day they intend to join the program. Instructions on how to participate in the program will be provided.

Cruise Ship Vaccination Status Classification

Cruise lines that choose to participate in CDC's COVID–19 Program for Cruise Ships Operating in U.S. Waters must advise CDC of the vaccination status classification for each participating ship. This information will be included on CDC's Cruise Ship Color Status webpage.

As part of CDC's COVID–19 Program for Cruise Ships Operating in U.S. Waters, cruise ship vaccination status classifications are defined as:

- Not Highly Vaccinated: Ships with less than 95% of passengers and 95% of crew who are fully vaccinated.
  - Cruise ship operators that select this vaccination status classification will be required to enforce mask use and physical distancing onboard according to CDC guidance.
- Highly Vaccinated: Ships with at least 95% of passengers and 95% of crew who are fully vaccinated, but less than 95% of passengers and 95% of crew are up to date with their COVID–19 vaccines.
  - Cruise ship operators that select this vaccination status classification will be required to enforce mask use—but not physical distancing—onboard according to CDC guidance. These cruise ship operators may implement physical distancing policies at their discretion.
- Vaccination Standard of Excellence: Ships with at least 95% of passengers (including children) and 95% of crew who are up to date with their COVID–19 vaccines.
  - Cruise ship operators that select this vaccination status classification will not be required to enforce mask use or physical distancing onboard. These cruise ship operators may implement

mask use and physical distancing policies at their discretion.

Ships adhering to the ''Highly Vaccinated'' or ''Vaccination Standard of Excellence'' classifications must maintain these thresholds for each voyage.

COVID–19 Response Plans

Cruise ship operators choosing to participate in CDC's COVID–19 Program for Cruise Ships Operating in U.S. Waters must have a COVID–19 response plan that includes the following components:

- Terminology and use of definitions that align with how CDC uses and defines the following terms: ''Confirmed COVID–19,'' ''COVID–19-like illness,'' ''close contact,'' ''fully vaccinated for COVID–19,'' and ''isolation'' and ''quarantine'' (including timeframes for isolation and quarantine).
- Protocols for on board surveillance of passengers and crew with COVID–19 and COVID–19-like-illness.
- Protocols for training all crew on COVID–19 prevention, mitigation, and response activities.
- Protocols for on board isolation and quarantine, including how to increase capacity in case of an outbreak.
- Protocols for COVID–19 testing that aligns with CDC technical instructions.
- Protocols for onboard medical staffing—including number and type of staff—and equipment in sufficient quantity to provide a hospital level of care (*e.g.,* ventilators, face masks, personal protective equipment) for the infected without the immediate need to rely on shoreside hospitalization.
- Procedures for disembarkation of passengers who test positive for COVID–19.
- Statement that the cruise ship operator has observed and will continue to observe all elements of its COVID–19 response plan including following the most current CDC recommendations and guidance for any public health actions related to COVID–19.

Surveillance and Reporting

For cruise ships that have chosen to participate in the program, CDC requires daily submission of the ''Enhanced Data Collection (EDC) During COVID–19 Pandemic Form'', in lieu of submitting the Maritime Conveyance Cumulative Influenza/Influenza-Like Illness (ILI) Form for COVID–19-like illness and the Maritime Conveyance Illness or the Death Investigation Form for individual cases of COVID–19. This EDC Form will be used to conduct surveillance for COVID–19 on board cruise ships using cumulative reports of confirmed COVID–19 and COVID–19-like illness, which includes acute respiratory illness (ARI), influenza-like illness (ILI), pneumonia, and additional COVID–19-like illness (aCLI) clinical criteria. Data points for this form include number of travelers (passengers and crew) currently onboard; case counts and diagnostic testing data for COVID–19 and COVID–19-like Illness (CLI); screening testing of asymptomatic travelers, isolation practices, and the percentage of travelers who are fully vaccinated.

Access to the online EDC form has been provided to cruise lines by the Cruise Lines International Association (CLIA) and/or CDC. Cruise lines that do not have access should contact CLIA or CDC.

To address industry concerns about the burden of daily EDC submission, CDC will add an option in the online form (*i.e.,* a check box) to streamline reporting if no cases were identified or no testing was conducted for that day. Additionally, to reduce reporting burden for cruise ships, CDC will continue to submit aggregate data to seaport authorities, state, local, and territorial health departments that oversee seaports, federal partners, and international maritime public health agencies.

The data collected in the EDC form are used to inform CDC's COVID–19 Color-Coding System for Cruise Ships. These data will greatly increase the transparency of the overall health of the crew members and passengers, and better allow the CDC to manage potential outbreaks and offer recommendations to the ship and port partners.

The color-coding system is only applicable to cruise ships that meet one of the following criteria:

1. Foreign-flagged cruise ships currently operating in U.S. waters; or
2. Foreign-flagged cruise ships currently operating outside of U.S. waters but planning to return to operation in international, interstate, or intrastate waterways subject to the jurisdiction of the United States; or
3. U.S.-flagged cruise ships choosing to participate in CDC's COVID–19 Program for Cruise Ships.

Status of ships is contingent upon daily submission of the EDC form. When a cruise ship notifies CDC of suspected or confirmed cases of COVID–19 on board, CDC determines whether an investigation is needed based on a predetermined threshold. If an investigation is deemed necessary, CDC will solicit extra information from the cruise ship operator to determine what public health interventions may be necessary. This investigation gives CDC and the cruise industry the ability to work closely together to protect the health and safety of those on board and in communities.

COVID–19 Testing Capabilities

As part of CDC's COVID–19 Program for Cruise Ships Operating in U.S. Waters, the purpose of testing is to quickly identify cases of COVID–19—and test and quarantine their close contacts who are not fully vaccinated—to prevent ongoing transmission between voyages. Cruise ship operators participating in the program must have onboard testing capabilities to test all symptomatic crew and passengers for COVID–19 and their close contacts. This includes having onboard rapid nucleic acid amplification test (NAAT) and antigen point-of-care equipment that meets the requirements specified by CDC in technical instructions (*e.g.,* authorized by FDA for use in a CLIA-waived setting); however, CDC will no longer need to pre-approve these tests. Instead, CDC will verify the cruise ship operator's COVID–19 testing capabilities during routine cruise ship inspections.

For the program's mass crew (and passenger, if applicable) testing requirement, cruise ship operators may use an onboard viral test (NAAT or antigen test) or arrange shoreside testing at a Clinical Laboratory Improvement Amendments (CLIA)-certified laboratory so long as it meets the requirements specified by CDC in its technical instructions. Additionally, cruise ship operators must have onboard viral tests for routine crew screening testing. Note, CDC will no longer need to pre-approve these tests. Cruise ship operators may contact CDC to request a list of acceptable NAAT and antigen tests.

Port Agreements

A cruise ship operator that chooses to participate in CDC's COVID–19 Program for Cruise Ships in U.S. Waters must document the approval of all U.S. port and local health authorities where their ships intend to dock or make port during one or more passenger voyages. The agreement must include a port operations component, a medical care plan component, and a housing component meeting the requirements of CDC's technical instructions. Note, cruise ship operators will not need to produce signed contracts between medical and housing facilities when submitting their port agreements. Cruise lines/brands may submit these agreements for all the ships in their fleet.

In lieu of documenting the approval of all local health authorities of jurisdiction, the cruise ship operator

may instead submit to CDC a signed statement from a local health authority, on the health authority's official letterhead, indicating that the health authority has declined to participate in deliberations and/or sign the port agreement, *i.e.,* a ''Statement of Non-Participation.'' The cruise ship operator can submit to CDC documentation of attempted communication with the local health authority regarding the port agreement if a response is not received or if the local health authority declines to provide a signed statement. Additionally, the cruise ship operator may enter into a multi-port agreement (as opposed to a single port agreement) provided that all relevant port and local health authorities (including the state health authorities) are signatories to the agreement.

During discussions with cruise ship operators, port authorities, and state and local health authorities, all parties requested CDC assistance with the required agreements. In response to these requests, CDC has created specific guidance for additional reference.

Inspections

Cruise ships participating in CDC's program are subject to in-person inspections by CDC inspectors. The cruise ship operator's properties and records must be made available for inspection to allow CDC to ascertain compliance with its requirements. Such properties and records include but are not limited to vessels, facilities, vehicles, equipment, communications, manifests, list of passengers, laboratory test results, and employee and passenger health records. CDC has issued additional technical guidance outlining the specific areas that may be inspected and corresponding recommendations.

CDC has provided, and will continue to provide as necessary, the technical instructions for the COVID–19 Program for Cruise Ships. CDC will work closely with cruise industry, state, territorial, and local health authorities, and seaport partners to evaluate the program components no later than March 18, 2022, and update them as needed. The evaluation will include a review of all public health recommendations and guidance issued as part of the program based on public health conditions and available scientific evidence.

CDC requests OMB approval for an estimated 17,532 annual burden hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form or information collection name	Number of respondents	Number responses per respondent	Avg. burden per response (hours)
Cruise ship brand/operator	COVID–19 Program for Cruise Ships Notice of Participation/Nonparticipation.	20	1	300/60
Cruise ship brand/operator	Cruise Ship Vaccination Status Classification	130	1	5/60
Cruise ship parent company	COVID–19 Response Plan	3	1	2,400/60
Cruise ship physician	Enhanced Data Collection (EDC) During COVID–19 Pandemic Form (Daily).	130	365	20/60
Cruise ship physician	Cruise COVID–19 Case Investigation Worksheet (if necessary).	104	1	30/60
Cruise ship physician	Cruise COVID–19 Contact Investigation Worksheet (if necessary).	24	1	30/60
Cruise ship brand/operator	Agreement with Health Care Organization with signoff from Local Health Authorities.	30	1	600/60
Cruise ship brand/operator	Agreement with Port of Entry with signoff from Local Health Authority.	30	1	600/60
Cruise ship brand/operator	Agreement with Housing Facility with signoff from Local Health Authority.	30	1	600/60
Cruise ship operator	Inspections	130	2	120/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–04668 Filed 3–4–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Solicitation of Nominations for Appointment to CDC's Advisory Committee to the Director (ACD) Health Equity Workgroup (HEW)

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), is seeking nominations for membership on the Advisory Committee to the Director (ACD) Health Equity Workgroup (HEW). The HEW will consist of approximately 15 members who are experts in fields associated with health equity; public health science and practice; public health policy development, analysis, and implementation.

DATES: Nominations for membership on the HEW workgroup must be received no later than March 17, 2022. Late nominations will not be considered for membership.

ADDRESSES: All nominations (cover letters and curriculum vitae) should be emailed to *ACDirector@cdc.gov* with the subject line: ''Nomination for CDC ACD HEW Workgroup.''

FOR FURTHER INFORMATION CONTACT: Kerry Caudwell, MPA, Centers for Disease Control and Prevention, Office of the Chief of Staff, 1600 Clifton Road NE, MS H21–10, Atlanta, Georgia 30329–4027, Telephone: (404) 639–7000; Email Address: *ACDirector@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Background: The purpose of the ACD, CDC is to advise the Secretary, HHS, and the Director, CDC, on policy and broad strategies that will enable CDC to fulfill its mission of protecting health through health promotion, prevention, and preparedness. The ACD, CDC consists of up to 15 non-federal members, including the Chair, knowledgeable in areas pertinent to the CDC mission, such as health policy, public health, global health, preparedness, preventive medicine, the faith-based and community-based sector, and allied fields.

Purpose: The establishment and formation of the HEW is to provide input to the ACD, CDC on agency-wide activities related to the scope and implementation of CDC's CORE (an acronym for C-cultivate comprehensive health equity science, O-optimize interventions, R-reinforce and expand robust partnerships, and E-enhance capacity and workforce diversity and inclusion) strategy around health equity. The HEW membership will be comprised of approximately 15 members. It will be chaired by two current ACD, CDC Special Government Employees. HEW co-chairs will present their findings, observations, and work products at one or more ACD, CDC meetings for discussion, deliberation, and decisions (final recommendations to CDC).

Nomination Criteria: HEW members will serve terms ranging from six months to one year and be required to attend HEW meetings approximately 1–2 times per month (virtually or in-person), and contribute time in between meetings for research, consultation, discussion, and writing assignments.

Nominations are being sought for individuals who have the expertise and qualifications necessary to contribute to the accomplishments of the committee's/workgroup's objectives. Nominees will be selected based on expertise in the fields of health equity; public health science and practice; public health policy development, analysis, and implementation. To ensure a diverse workgroup composition, nominees with front line and field experience at the local, state, tribal and territorial levels are encouraged to apply. This includes nominees with experience working for, and with, community-based organizations and other non-profit organizations. Federal employees will not be considered for membership. Selection of members is based on candidates' qualifications to contribute to the accomplishment of the HEW's objectives.

HHS policy stipulates that membership be balanced in terms of points of view represented and the workgroup's function. Appointments shall be made without discrimination based on age, race, ethnicity, gender, sexual orientation, gender identity, HIV status, disability, and cultural, religious, or socioeconomic status. Nominees must be U.S. citizens and cannot be full-time employees of the U.S. Government. Current participation on federal workgroups or prior experience serving on a federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Interested candidates should submit the following items:

- A one-half to one-page cover letter that includes your understanding of, and commitment to, the time and work necessary; one to two sentences on your background and experience; and one to two sentences on the skills/perspective you would bring to the HEW.
- Current curriculum vitae which highlights the experience and work history being sought relevant to the criteria set forth above, including complete contact information (telephone numbers, mailing address, email address).

Nominations may be submitted by the candidate him or herself, or by the person/organization recommending the candidate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04690 Filed 3–4–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—CE22–003, Rigorously Evaluating Programs and Policies To Prevent Child Sexual Abuse (CSA); Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—*CE22–003, Rigorously Evaluating Programs and Policies to Prevent Child Sexual Abuse (CSA),* April 19–20, 2022, 8:30 a.m., EDT–5:30 p.m., EDT, Web Conference, in the original FRN. The meeting was published in the **Federal Register** on January 14, 2022, Volume 87, Number 10, page 2439.

The meeting is being amended to change the meeting date and should read as follows:

CE22–003, Rigorously Evaluating Programs and Policies to Prevent Child Sexual Abuse (CSA): April 19, 2022.

The meeting is closed to the public.

FOR FURTHER INFORMATION CONTACT: Aisha L. Wilkes, M.P.H., Scientific Review Officer, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Mailstop S106–9, Atlanta, Georgia 30341, Telephone (404) 639–6473, *AWilkes@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04681 Filed 3–4–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–CE22–002, Grants To Support New Investigators in Conducting Research Related To Preventing Interpersonal Violence Impacting Children and Youth; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—*RFA–CE22–002, Grants to Support New Investigators in Conducting Research Related to Preventing Interpersonal Violence Impacting Children and Youth,* March 8–9, 2022, 8:30 a.m., EDT–5:30 p.m., EDT, Web Conference, in the original FRN. The meeting was published in the **Federal Register** on January 5, 2022, Volume 87, Number 3, page 460.

The meeting is being amended to change the meeting date and should read as follows:

RFA–CE22–002, Grants to Support New Investigators in Conducting Research Related to Preventing

Interpersonal Violence Impacting Children and Youth: March 8, 2022.

The meeting is closed to the public.

FOR FURTHER INFORMATION CONTACT: Aisha L. Wilkes, M.P.H., Scientific Review Officer, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Mailstop S106–9, Atlanta, Georgia 30341, Telephone (404) 639–6473, *AWilkes@cdc.gov*.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04680 Filed 3–4–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3425–N]

Announcement of the Approval of COLA as an Accreditation Organization for the Specialty of Pathology To Include Histopathology, Cytology and Oral Pathology Under the Clinical Laboratory Improvement Amendments of 1988

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the application of COLA for approval as an accreditation organization for clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program for the specialty of Pathology to include Histopathology, Cytology and Oral Pathology. We have determined that COLA meets or exceeds the applicable CLIA requirements. In this notice, we announce the approval and grant COLA deeming authority for the specialty of Pathology to include Histopathology, Cytology and Oral Pathology for a period of 2 years.

DATES: This notice is effective from March 7, 2022 to March 7, 2024.

FOR FURTHER INFORMATION CONTACT: Raelene Perfetto (410) 786–6876.

SUPPLEMENTARY INFORMATION:

I. Background and Legislative Authority

On October 31, 1988, the Congress enacted the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (Pub. L. 100–578). CLIA amended section 353 of the Public Health Service Act. We issued a final rule implementing the accreditation provisions of CLIA on July 31, 1992 (57 FR 33992). Under those provisions, CMS may grant deeming authority to an accreditation organization if its requirements for laboratories accredited under its program are equal to or more stringent than the applicable CLIA program requirements in 42 CFR part 493 (Laboratory Requirements). Subpart E of part 493 (Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program) specifies the requirements an accreditation organization must meet to be approved by CMS as an accreditation organization under CLIA.

II. Notice of Approval of COLA for the Specialty of Pathology To Include Histopathology, Cytology and Oral Pathology as an Accreditation Organization

In this notice, we approve COLA as an organization that may accredit laboratories for purposes of establishing their compliance with CLIA requirements for the specialty of Pathology to include Histopathology, Cytology and Oral Pathology. We have examined the initial COLA application and all subsequent submissions to determine its accreditation program's equivalency with the requirements for approval of an accreditation organization under subpart E of part 493. We have determined that COLA meets or exceeds the applicable CLIA requirements. We have also determined that COLA will ensure that its accredited laboratories will meet or exceed the applicable requirements in subparts H, I, J, K, M, Q, and the applicable sections of R. Therefore, we grant COLA approval as an accreditation organization under subpart E of part 493, for the period stated in the **DATES** section of this notice for the specialty of Pathology and the subspecialties of Histopathology, Cytology and Oral Pathology. As a result of this determination, any laboratory that is accredited by COLA during the time period stated in the **DATES** section of this notice will be deemed to meet the CLIA requirements for the specialty of Pathology to include Histopathology, Cytology and Oral Pathology, and therefore, will generally not be subject to routine inspections by a State survey agency to determine its compliance with CLIA requirements. The accredited laboratory, however, is subject to validation and complaint investigation surveys performed by CMS, or its agent(s).

III. Evaluation of COLA's Request for Approval as an Accreditation Organization Under CLIA for the Specialty of Pathology To Include Histopathology, Cytology and Oral Pathology

The following describes the process used to determine that COLA accreditation program meets the necessary requirements to be approved by CMS and that, as such, CMS may approve COLA as an accreditation program with deeming authority under the CLIA program. In reviewing these materials, we reached the following determinations for each applicable part of the CLIA regulations:

A. Subpart E—Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program

COLA submitted its mechanism for monitoring compliance with all requirements equivalent to condition-level requirements, a list of all its current laboratories and the expiration date of their accreditation, and a detailed comparison of the individual accreditation requirements with the comparable condition-level requirements. We have determined that COLA policies and procedures for oversight of laboratories performing laboratory testing for the specialty of Pathology to include Histopathology, Cytology and Oral Pathology are equivalent to those required under the CLIA regulations in the matters of inspection, monitoring proficiency testing (PT) performance, investigating complaints, and making PT information available. COLA submitted documentation regarding its requirements for monitoring and inspecting laboratories and describing its standards regarding data management, the inspection process, procedures for removal or withdrawal of accreditation, notification requirements for laboratories out of compliance, and accreditation organization resources. We have determined that COLA's requirements for monitoring and inspecting laboratories are equivalent to those required under our regulations for laboratories in the areas of data management, the inspection process, procedures for removal or withdrawal of accreditation, notification requirements

for laboratories out of compliance, and accreditation organization resources. Therefore, we have determined that the requirements of the accreditation program submitted for approval are equal to or more stringent than the requirements of the CLIA regulations.

B. Subpart H—Participation in Proficiency Testing for Laboratories Performing Nonwaived Testing

We have determined that COLA's requirements are equal to or more stringent than the CLIA requirements at §§ 493.801 through 493.865.

C. Subpart J—Facility Administration for Nonwaived Testing

We have determined that COLA's requirements for the specialty of Pathology to include Histopathology, Cytology and Oral Pathology are equal to or more stringent than the CLIA requirements at §§ 493.1100 through 493.1105.

D. Subpart K—Quality System for Nonwaived Testing

We have determined that COLA's requirements for the specialty of Pathology to include Histopathology, Cytology and Oral Pathology are equal to or more stringent than the CLIA requirements at §§ 493.1200 through 493.1299.

E. Subpart M—Personnel for Nonwaived Testing

We have determined that COLA's requirements for the specialty of Pathology to include Histopathology, Cytology and Oral Pathology are equal to or more stringent than the CLIA requirements at §§ 493.1403 through 493.1495 for laboratories that perform moderate and high complexity testing.

F. Subpart Q—Inspection

We have determined that COLA's requirements for the specialty of Pathology to include Histopathology, Cytology and Oral Pathology are equal to or more stringent than the CLIA requirements at §§ 493.1771 through 493.1780.

G. Subpart R—Enforcement Procedures

We have determined that COLA's requirements for the specialty of Pathology to include Histopathology, Cytology and Oral Pathology meet the requirements of subpart R to the extent that it applies to accreditation organizations. COLA policy sets forth the actions the organization takes when laboratories it accredits do not comply with its requirements and standards for accreditation. When appropriate, COLA will deny, suspend, or revoke accreditation in a laboratory accredited by COLA and report that action to us within 30 days. COLA also provides an appeal process for laboratories that have had accreditation denied, suspended, or revoked.

We have determined that COLA's laboratory enforcement and appeal policies are equal to or more stringent than the requirements of part 493 subpart R as they apply to accreditation organizations.

IV. Federal Validation Inspections and Continuing Oversight

The Federal validation inspections of laboratories accredited by COLA may be conducted on a representative sample basis or in response to substantial allegations of noncompliance (that is, complaint inspections). The outcome of those validation inspections, performed by CMS or our agents, or the State survey agencies, will be our principal means for verifying that the laboratories accredited by COLA remain in compliance with CLIA requirements. This Federal monitoring is an ongoing process.

V. Removal of Approval as an Accrediting Organization

CLIA regulations at § 493.575 provide that we may rescind the approval of an accreditation organization, such as that of COLA, before the end of the effective date of approval in certain circumstances. For example, If we determine that COLA has failed to adopt, maintain and enforce requirements that are equal to, or more stringent than, the CLIA requirements, or that systemic problems exist in its monitoring, inspection or enforcement processes, we may impose a probationary period, not to exceed 1 year, in which COLA would be allowed to address any identified issues. Should COLA be unable to address the identified issues within that timeframe, CMS may, in accordance with the applicable regulations, revoke COLA's deeming authority under CLIA.

Should circumstances result in our withdrawal of COLA's approval, we will publish a notice in the **Federal Register** explaining the basis for removing its approval.

VI. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, record keeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget (OMB) under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The requirements associated with the accreditation process for clinical laboratories under the CLIA program, codified in 42 CFR part 493 subpart E, are currently approved by OMB under OMB control number 0938–0686.

VII. Executive Order 12866 Statement

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Lynette Wilson, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Lynette Wilson,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2022–04770 Filed 3–4–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Impact of Health Misinformation in the Digital Information Environment in the United States Throughout the COVID–19 Pandemic Request for Information (RFI)

AGENCY: Office of the Surgeon General, Department of Health and Human Services.

ACTION: Request for information (RFI).

SUMMARY: The Office of the Surgeon General requests input from interested parties on the impact and prevalence of health misinformation in the digital information environment during the COVID–19 pandemic. The purpose of this RFI is to understand the impact of COVID–19 misinformation on healthcare infrastructure and public health more broadly during the pandemic including (but not limited to) quality of care, health decisions and outcomes, direct and indirect costs, trust in the healthcare system and providers, and healthcare worker morale and safety, understand the unique role the information environment played in the societal response to the COVID–19 pandemic and implications for future public health emergencies, understand the impact of exposure to health misinformation and how access to trusted and credible health information, particularly during a public health emergency, impacts lifesaving health decisions such as an individual's

likelihood to vaccinate; and use the information requested to prepare for and respond to future public health crises. HHS will consider the usability, applicability, and rigor of submissions in response to this RFI and share learnings from these responses with the public. Public comments and submissions will also be made available to the public and can be used for research purposes.

DATES: To be assured consideration, comments must be received via the methods provided below, no later than midnight Eastern Time (ET) on May 2, 2022. Submissions received after the deadline will not be reviewed.

ADDRESSES: You may send comments, identified by [Impact of Health Misinformation in the Digital Information Environment in the United States Throughout the COVID–19 Pandemic Request for Information (RFI)], by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for sending comments.
- *Form:* [*https://forms.office.com/g/kPPYHM15Uc*].
- *Email:* [*COVIDMisinfoRFI@hhs.gov*]. Include [Impact of Health Misinformation in the Digital Information Environment in the United States Throughout the COVID–19 Pandemic Request for Information (RFI)] in the subject line of the message.

You may respond to some or all of the topic areas covered in the RFI. You may also include links to online material or interactive presentations.

For information on public comments, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Max Lesko at *COVIDMisinfoRFI@hhs.gov* or at (202) 893–5020.

SUPPLEMENTARY INFORMATION: Please feel free to respond to as many topics as you choose. Responses should include the name of the person (s) or organization (s) filing the comment, as well as the respondent type (*e.g.,* academic institution, advocacy group, professional society, community-based organization, industry, member of the public, government, and governmental entities such as libraries and public health departments. Respondent's role in the organization, as applicable, may also be provided (*e.g.,* researcher, administrator, student, product manager, journalist) on a voluntary basis. Comments containing references, studies, research, and other empirical data that are not widely published should include electronic links to the referenced materials or be attached to the email. No proprietary business information, copyrighted information, or personally identifiable information should be submitted in response to this RFI. Listening sessions will be hosted to allow oral comments and submissions. Please be aware that all submissions will be reviewed and relevant comments submitted in direct response to the information requested in this RFI may be posted or otherwise released publicly.

I. Background

1. Health misinformation—health information that is false, inaccurate, or misleading according to the best available evidence at the time—has been a challenge during public health emergencies before, including persistent rumors about HIV/AIDS that have undermined efforts to reduce infection rates in the U.S. and during the Ebola epidemic. But the speed, scale, and sophistication with which misinformation has been spread during the COVID–19 pandemic has been unprecedented. Recent research shows that most Americans believe or are unsure of at least one COVID–19 vaccine falsehood. The digital information environment is a phenomenon that requires further research and study to better prepare for future public health emergencies. This RFI seeks to understand both the impact of health misinformation during the COVID–19 pandemic and the unique role that technology and social media platforms play in the dissemination of critical health information during a public health emergency. The inputs from stakeholders will help inform future pandemic response in the context of an evolving digital information environment.

II. Scope and Assumptions

- The definition of health misinformation for the purposes of this RFI is health information that is false, inaccurate, or misleading according to the best available evidence at the time.
- Exposure is defined as seeing content in newsfeeds, in search results, or algorithmically nominated content.
- Potential exposure is the exposure users would have had if they could see all the content that is eligible to appear in their newsfeeds.
- Engagement includes the clicking or viewing of content, as well as reacting.
- Sharing is the act of sharing a piece of pre-existing content within social media.
- Technology platforms include the following: General search engines, content sharing platforms, social media platforms, e-commerce platforms, crowd sourced platforms, and instant messaging systems.
- Relevant dates for responses include January 2020–Present.
- Research, case studies, data sets, images, data visualizations, interviews, and personal testimonies may be submitted.
- All information should be provided at a level of granularity that preserves the privacy of users.
- If including data sets, please make the data available in a downloadable, machine-readable format with accompanying metadata.

III. Information Requested/Key Questions

Please respond to specific topics where you have both expertise and sufficient evidence to support your comments. Respondents are requested to share objective results of an evaluation for each topic when possible. A response to every item is not required.

Information About Impact on Healthcare

1. Information about how COVID–19 misinformation has affected quality of patient care during the pandemic.

a. Information about how important a role COVID–19 misinformation played in patient decisions not to vaccinate, including the types of misinformation that influenced decisions.

b. Information about the media sources from which patients are receiving misinformation and if such information has negatively influenced their healthcare decisions or resulted in patient harm.

2. Information about how COVID–19 misinformation has impacted healthcare systems and infrastructure.

a. Information about time and resources spent addressing COVID–19 misinformation.

b. Information about how COVID–19 misinformation has impacted healthcare worker morale and safety in the workplace, including instances of online harassment or harm.

2. Information About Technology Platforms

3. Information about how widespread COVID–19 misinformation is on individual technology platforms including: General search engines, content sharing platforms, social media platforms, e-commerce platforms, crowd sourced platforms, and instant messaging systems.

a. Starting with, but not limited to, *these common examples* of COVID–19 vaccine misinformation documented by the Centers for Disease Control and Prevention (CDC), any aggregate data

and analysis on the prevalence of COVID–19 misinformation on individual platforms including exactly how many users saw or may have been exposed to instances of COVID–19 misinformation.

b. Any aggregate data and analysis on how many users were exposed, were potentially exposed, or otherwise engaged with COVID–19 misinformation.

i. Exposure is defined as seeing content in newsfeeds, in search results, or algorithmically nominated content.

ii. Potential exposure is the exposure users would have had if they could see all the content that is eligible to appear within their newsfeeds.

iii. Engagement includes the clicking or viewing of content, as well as reacting. Sharing is the act of sharing a piece of pre-existing content within social media.

c. Any aggregate data broken down by demographics on groups or populations who may have been differentially exposed to or impacted by COVID–19 misinformation.

4. Information about COVID–19 misinformation policies on individual technology platforms.

a. Any aggregate data and analysis of technology platform COVID–19 misinformation policies including implementation of those policies and evaluations of their effectiveness.

5. Information about sources of COVID–19 misinformation.

a. Information about the major sources of COVID–19 misinformation associated with exposure.

i. By source we mean both specific, public actors that are providing misinformation, as well as components of specific platforms that are driving exposure to information.

6. Information about COVID–19 misinformation from sources engaged in the sale of unproven COVID–19 products or services (*e.g.,* prescriptions for unapproved or unauthorized drugs, sales of alternative cures, or sales of other unapproved or unauthorized COVID–19 medical products), or other money-making models.

Information About Impacted Communities

7. Information about how COVID–19 misinformation has impacted individuals and communities.

a. Information about how COVID–19 misinformation has impacted organizations that serve communities directly through service (*e.g.,* libraries and food banks), and community-based organizations that are faith-based or provide affinity to communities (*e.g.,* clubs and sororities or fraternities).

b. Information about how COVID–19 misinformation has impacted community members: Individuals and families.

IV. How To Submit Your Response

To facilitate review of your responses, please reference the subject of the RFI in your response. You may respond to some or all of the topic areas covered in the RFI, and you can suggest other factors or relevant questions. You may also include links to online material or interactive presentations. If including data sets, please make the data available in a downloadable, machine-readable format with accompanying metadata.

Please note that this is a request for information (RFI) only. In accordance with the implementing regulations of the Paperwork Reduction Act of 1995 (PRA), specifically 5 CFR 1320.3(h)(4), this general solicitation is exempt from the PRA. Facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration, are not generally considered information collections and therefore not subject to the PRA.

This RFI is issued solely for information and planning purposes; it does not constitute a Request for Proposal (RFP), applications, proposal abstracts, or quotations. This RFI does not commit the U.S. Government to contract for any supplies or services or make a grant award. Further, we are not seeking proposals through this RFI and will not accept unsolicited proposals. We note that not responding to this RFI does not preclude participation in any future procurement, if conducted. It is the responsibility of the potential responders to monitor this RFI announcement for additional information pertaining to this request.

HHS may or may not choose to contact individual responders. Such communications would be for the sole purpose of clarifying statements in written responses. Contractor support personnel may be used to review responses to this RFI. Responses to this notice are not offers and cannot be accepted by the Government to form a binding contract or issue a grant. Information obtained as a result of this RFI may be used by the Government for program planning on a non-attribution basis. This RFI should not be construed as a commitment or authorization to incur cost for which reimbursement would be required or sought. All submissions become U.S. Government property; they will not be returned, and we may publish some of their content.

Dated: March 2, 2022.

Max Lesko,

Chief of Staff, Office of the Surgeon General.

[FR Doc. 2022–04777 Filed 3–4–22; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Understanding Alzheimer's Disease-2.

Date: March 29, 2022.

Time: 8:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Samuel C. Edwards, Ph.D., Chief, BDCN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Child and Adolescent Biobehavioral Development, Psychopathology, Sleep, and Cognitive Function.

Date: March 30, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Benjamin G. Shapero, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, Bethesda, MD 20892, (301) 402–4786, *shaperobg@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS/HIV Member Conflict Application Review.

Date: April 5, 2022.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shan Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–4390, *shan.wang@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 2, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–04754 Filed 3–4–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; RFA AA21–015—Collaborative Partnership between Research Centers in Minority Institutions (RCMI) and Alcohol Research Centers (U54 Clinical Trial Optional).

Date: May 6, 2022.

Time: 10:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700B Rockledge Drive, Room 2114, Bethesda, MD 20892, (301) 451–2067, *srinivar@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: March 1, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–04677 Filed 3–4–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the NIH Clinical Center Research Hospital Board.

The meeting will be held as a virtual meeting and open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH video *https://videocast.nih.gov/* and the CCRHB website *https://ccrhb.od.nih.gov/meetings.html.*

Name of Committee: NIH Clinical Center Research Hospital Board.

Date: April 1, 2022.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: Clinical Center CEO Update, Clinical and Safety Performance Metrics, Novel Coronavirus (COVID–19) Update, and other Business of the Board.

Place: National Institutes of Health, Building 1, 9000 Rockville Pike, Bethesda, MD 20892 (Virtual Meeting).

Contact Persons: Pat Piringer, RN, MSN (C), National Institutes of Health Clinical Center, Bethesda, MD 20892, *ppiringer@cc.nih.gov*, 301–402–2435, 202–460–7542 (direct).

Natascha Pointer, Management Analyst, Executive Assistant to Dr. Gilman, Office of the Chief Executive Officer, National Institutes of Health Clinical Center, Bethesda, MD 20892, *npointer@cc.nih.gov*, 301–496–4114, 301–402–2434 (direct).

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: March 1, 2022.

Patricia B. Hansberger,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–04725 Filed 3–4–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; BRAIN Initiative: Novel Tools to Probe Cells and Circuits in the Brain (R01).

Date: March 30, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Erin E. Gray, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Boulevard NSC 6152B, Bethesda, MD 20892, 301–402–8152, *erin.gray@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: March 1, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–04678 Filed 3–4–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics: Machine Learning and Artificial Intelligence Analysis of OCT and Related Modalities for Ocular Diseases.

Date: March 16, 2022.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Susan Gillmor, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 762–3076, *susan.gillmor@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 2, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–04752 Filed 3–4–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–20–298: Development of the Fetal Immune System.

Date: March 30, 2022.

Time: 1:00 p.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Gregory S. Shelness, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6156, MSC 7892, Bethesda, MD 20892–7892, (301) 435–0492, *shelnessgs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–19–372: Social Epigenomics Research Focused on Minority Health and Health Disparities.

Date: March 31, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Steven Michael Frenk, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, (301) 480–8665, *frenksm@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Metabolism.

Date: April 5, 2022.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anthony Wing Sang Chan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 809K, Bethesda, MD 20892, (301) 435–5000, *chana2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Vascular and Hematology.

Date: April 6–7, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Vaccine Development and Vector Biology.

Date: April 6, 2022.

Time: 1:00 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shinako Takada, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–9448, *shinako.takada@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Myalgic Encephalomyelitis-Chronic Fatigue Syndrome.

Date: April 7, 2022.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: M. Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, (301) 435–1766, *bennettc3@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neuroimmunology, Development and Social Stress.

Date: April 8, 2022.

Time: 1:30 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Janita N. Turchi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–4005, *turchij@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 2, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–04749 Filed 3–4–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7046–C–10]

Privacy Act of 1974; System of Records

AGENCY: Office of the Chief Financial Officer, HUD.

ACTION: Notice of a modified system of records; correction.

SUMMARY: Line of Credit Controls System (LOCCS), an Office of the Chief Financial Officer (OCFO) system, is a disbursement and cash management system that services the funding needs of HUD's grant, loan, and subsidy clients. Under the Privacy Act of 1974, the Department of Housing and Urban Development, the Office of the Chief Financial Officer proposes to update the system of records titled, Line of Credit Controls System. This system of records allows the Department of Housing and Urban Development OCFO's LOCCS to collect and maintain records on grantees. Because of a review of this system, information has been updated within the System Location section of the SORN and the authorities to collect information for LOCCS has been updated. This notice replaces the notice HUD published on December 8, 2021 at 86 FR 69673.

DATES: *Applicable Date:* This notice action shall be applicable immediately, which will become effective April 6, 2022.

Comments will be accepted on or before: April 6, 2022.

ADDRESSES: You may submit comments, identified by docket number by one of these methods:

Federal e-Rulemaking Portal: http://www.regulations.gov. Follow the instructions provided on that site to submit comments electronically.

Fax: 202–619–8365.

Email: www.privacy@hud.gov.

Mail: Attention: Privacy Office; Ladonne L. White; The Executive Secretariat; 451 Seventh Street SW, Room 10139; Washington, DC 20410–1001.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov.* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: LaDonne White; 451 Seventh Street SW, Room 10139; Washington, DC 20410; telephone number 202–708–3054 (this is not a toll-free number). Individuals hearing- or speech-impaired may access this telephone number via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: The following are to be updated:

- The system location is being changed. LOCCS records are no longer in South Charleston, WV. It is at HUD Headquarters; Microsoft Azure Cloud US East Data Center. Microsoft is responsible for securing their data center per FedRAMP requirements.
- Routine uses previously included by reference are not explicitly listed in the SORN. This change adds no new routine uses, but merely reorganizes them. The routine uses included by reference to HUD's Appendix I are now explicitly listed.
- Remove instances of Program Accounting System (PAS) because it has been decommissioned. A new module has been added to LOCCS. LOCCS incorporated the entire Program Accounting System (PAS) functionality in this new Award Funding module. PAS users now access LOCCS to perform their daily tasks in the LOCCS Award Funding Module. However, no new Personally Identifiable Information (PII) is being collected, stored, maintained, or disclosed because of the PAS module being incorporated. Social Security Numbers have been removed from the system.
- Authority for Maintenance of the System: Replace ''Sec. 113 of the Budget and Accounting Act of 1951 (31 U.S.C. 66a)'' with ''31 U.S.C. 3511''.
- Updated Categories of Individuals Covered by System.
- Updated Policies and Practices for Retention and Disposal of Records.
- Slight changes to the Record Access Procedures, Contesting Records Procedures, and Notification Procedures sections have been made. Minor non-substantive changes have been made to these sections to more accurately describe HUD's practices for accessing, contesting, and notifying.

SYSTEM NAME AND NUMBER:

Line of Credit Control System (LOCCS, A67).

SECURITY CLASSIFICATION:

Sensitive but Unclassified.

SYSTEM LOCATION:

HUD Headquarters, 451 7th Street SW, Washington, DC 20410 and Microsoft Azure Cloud US East Data Center.

SYSTEM MANAGER(S):

Sairah Ijaz, Assistant Chief Financial Officer for Systems, Office of the Chief Financial Officer, Department of Housing and Urban Development, 451 Seventh Street SW, Room 3100, Washington, DC 20410.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

- 31 U.S.C. 3511.
- The Chief Financial Officers Act of 1990 (31 U.S.C. 901, *et seq.*).
- Executive Order 9397, as amended by Executive Order 13478.
- Housing and Community Development Act of 1987, 42 U.S.C. 3543.

PURPOSES OF THE SYSTEM:

The system is to process and make grant, loan, and subsidy disbursements. LOCCS ensures that payments are made promptly thus achieving efficient cash management practices. It creates accounting transactions with the appropriate accounting classification elements to correctly record disbursements and collections to the grant/project level subsidiary.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Privacy Act allows HUD to disclose records from its systems of records to appropriate agencies, entities, and persons as a routine use, when the disclosure is compatible with the purpose for which the records were collected. The routine use statements and their conditions for disclosure are categorized below. The records maintained in this system may also be maintained for other purposes in another system or systems. In such cases, the routine uses for that system or those systems will apply.

(1) General Service Administration Information Disclosure Routine Use:

To the National Archives and Records Administration (NARA) and the General Services Administration (GSA) for records having sufficient historical or other value to warrant its continued preservation by the United States Government, or for inspection under authority of Title 44, Chapter 29, of the United States Code.

(2) Congressional Inquiries Disclosure Routine Use:

To a congressional office from the record of an individual, in response to

an inquiry from the congressional office made at the request of that individual.

(3) Health and Safety Prevention Disclosure Routine Use:

To appropriate Federal, State, and local governments, or persons, under showing compelling circumstances affecting the health or safety or vital interest of an individual or data subject, including assisting such agencies or organizations in preventing the exposure to or transmission of a communicable or quarantinable disease, or to combat other significant public health threats, if upon such disclosure appropriate notice was transmitted to the last known address of such individual to identify the health threat or risk.

(4) Prevention of Fraud, Waste, and Abuse Disclosure Routine Use:

To Federal agencies, non-Federal entities, their employees, and agents (including contractors, their agents or employees; employees or contractors of the agents or designated agents); or contractors, their employees or agents with whom HUD has a contract, service agreement, grant, cooperative agreement, or computer matching agreement for: (1) Detection, prevention, and recovery of improper payments; (2) detection and prevention of fraud, waste, and abuse in major Federal programs administered by a Federal agency or non-Federal entity; (3) detection of fraud, waste, and abuse by individuals in their operations and programs, but only if the information shared is necessary and relevant to verify pre-award and prepayment requirements before the release of Federal funds, prevent and recover improper payments for services rendered under programs of HUD or of those Federal agencies and non-Federal entities to which HUD provides information under this routine use.

(5) Research and Statistical Analysis Disclosure Routine Uses:

(a) To contractors, grantees, experts, consultants, Federal agencies, and non-Federal entities, including, but not limited to, State and local governments and other research institutions or their parties, and entities and their agents with whom HUD has a contract, service agreement, grant, or cooperative agreement, when necessary to accomplish an agency function, related to a system of records, for statistical analysis and research supporting program operations, management, performance monitoring, evaluation, risk management, and policy development, or to otherwise support the Department's mission. Records under this routine use may not be used in whole or in part to make decisions that affect the rights, benefits, or privileges of specific individuals. The results of the matched information may not be disclosed in identifiable form.

(b) To a recipient who has provided the agency with advance, adequate written assurance that the record provided from the system of records will be used solely for statistical research or reporting purposes. Records under this condition will be disclosed or transferred in a form that does not identify an individual.

(6) Information Sharing Environment Disclosure Routine Uses:

To contractors, grantees, experts, consultants and their agents, or others performing or working under a contract, service, grant, or cooperative agreement with HUD, when necessary to accomplish an agency function related to a system of records. Disclosure requirements are limited to only those data elements considered relevant to accomplishing an agency function. Individuals provided information under these routine use conditions are subject to Privacy Act requirements and disclosure limitations imposed on the Department.

(7) Data Testing for Technology Implementation Disclosure Routine Use:

To contractors, experts and consultants with whom HUD has a contract, service agreement, or other assignment of the Department, when necessary to utilize data to test new technology and systems designed to enhance program operations and performance.

(8) Data Breach Remediation Purposes Routine Use:

(a) To appropriate agencies, entities, and persons when (1) HUD suspects or has confirmed there has breached the system of records; (2) HUD has determined that because of the suspected or confirmed breach there is a risk of harm to individuals, HUD, the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist with HUD's efforts to respond to the suspected or confirmed breach to prevent, minimize, or remedy such harm.

(b) To another Federal agency or Federal entity, when HUD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(9) Disclosures for Law Enforcement Investigations Routine Uses:

(a) To appropriate Federal, State, local, tribal, or governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where HUD determines that the information would help to enforce civil or criminal laws when such records, either alone or in conjunction with other information, indicate a violation or potential violation of law.

(10) Court or Law Enforcement Proceedings Disclosure Routine Uses:

(a) To a court, magistrate, administrative tribunal, or arbitrator while presenting evidence, including disclosures to opposing counsel or witnesses in civil discovery, litigation, mediation, or settlement negotiations; or in connection with criminal law proceedings; or in response to a subpoena or to a prosecution request when such records to be released are specifically approved by a court provided order. Disclosures made pursuant to this routine use are limited to when HUD determines that use of such records is relevant and necessary to the litigation, provided, however, that in each case, HUD determines that the disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

(11) Department of Justice for Litigation Disclosure Routine Use:

To the Department of Justice (DOJ) when seeking legal advice for a HUD initiative or in response to DOJ's request for the information, after either HUD or DOJ determine that such information relates to DOJ's representatives of the United States or any other components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines before disclosure that disclosure of the records to DOJ is a use of the information in the records that is compatible with the purpose for which HUD collected the records. HUD on its own may disclose records in this system of records in legal proceedings before a court or administrative body after determining that disclosing the records to the court or administrative body is a use of the information in the records that is compatible with the purpose for which HUD collected the records.

(12) The U.S. Treasury Disclosure Routine Use:

To the U.S. Treasury for transactions such as disbursements of funds and related adjustments;

(13) The Internal Revenue Service Routine Use:

To the IRS for reporting payments for goods and services and for reporting of discharge indebtedness;

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures under 5 U.S.C. 552a(b)(12). Disclosures may be made from the system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)). The disclosure is limited to information to establish the identity of the individual, including name, social security number, and address; the amount, status, history of the claim, and the agency or program under which the claim arose solely to allow the consumer reporting agency to prepare a credit report.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic files are stored on servers. Paper printouts or original input documents are stored in locked file cabinets at HUD or as imaged documents on magnetic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by business partner name, tax ID number, schedule number, voucher number, and contract number.

POLICIES AND PRACTICIES FOR RENTENTION AND DISPOSAL OF RECORDS:

General Records Schedule 1:1; Financial Management and Reporting Records. This schedule covers records created by Federal agencies in carrying out the work of financial management. Temporary. Destroy 6 years after final payment or cancellation, but longer retention is authorized if required for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All HUD employees have undergone background investigations. HUD buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures. Access is restricted to authorized personnel or contractors whose responsibilities require access. System users must take the mandatory security awareness training annually as mandated by the Federal Information Security Modernization Act (FISMA) (44 U.S.C. 3541, *et seq.*). Users must also sign a Rules of Behavior form certifying that they agree to comply with the requirements before they are granted access to the system. LOCCS resides on the Microsoft Azure Cloud, a FedRAMP certified Infrastructure-as-a-Service (IaaS). The system is limited to those with a business need to know. LOCCS Authorizing Officials authorize LOCCS access for users, and OCFO ensures the user is eligible for access (*e.g.,* suitability, System Security Administrator approval), which allow for segregation of duties. Also, system user recertifications is conducted semi-annually for external users and quarterly for internal users.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether this System of Records contains information on themselves should address written inquiries to the Department of Housing Urban and Development, 451 7th Street SW, Washington, DC. For verification, individuals should provide full name, current address, and telephone number. In addition, the requester must provide either a notarized statement or an unsworn declaration made under 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

The HUD rule for accessing, contesting, and appealing agency determinations by the individual concerned are published in 24 CFR part 16 or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Department of Housing Urban Development Chief Financial Officer, 451 7th Street SW, Washington, DC 20410–0001. For verification, individuals should provide full name, office or organization where assigned, if applicable, and current address and telephone number. In addition, the requester must provide either a notarized statement or an unsworn declaration made under 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

[Docket No. FR–5763–N–03]

LaDonne L. White,

Chief, Privacy Officer.

[FR Doc. 2022–04715 Filed 3–4–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2021–0008; FXIA16710900000–FF09A30000–223]

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Nineteenth Regular Meeting: Proposed Resolutions, Decisions, and Agenda Items Being Considered; Observer Information

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The United States, as a Party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), may propose amendments to the CITES Appendices for consideration at meetings of the Conference of the Parties (Conference, or CoP). The nineteenth regular meeting of the Conference of the Parties to CITES (CoP19) is scheduled to be held in Panama City, Panama, November 14–25, 2022. With this notice, we respond to suggestions received from the public concerning proposed resolutions, decisions, and agenda items that the United States might submit for consideration at CoP19; invite your comments and information on these issues; and provide information on how U.S. nongovernmental organizations can attend CoP19 as observers.

DATES:

Meeting: The meeting is scheduled to be held in Panama City, Panama, November 14–25, 2022.

Submitting Information and Comments: We will consider all information and comments we receive on or before April 6, 2022.

Requesting Approval to Attend CoP19 as an Observer: We must receive your request no later than August 14, 2022 (see **ADDRESSES**).

ADDRESSES:

Comments: You may submit comments by one of the following methods:

(1) *Electronically:* Using the Federal eRulemaking Portal: *https://www.regulations.gov,* search for FWS–HQ–IA–2021–0008, which is the docket number for this notice.

(2) *U.S. mail:* Public Comments Processing, Attn: FWS–HQ–IA–2021–0008; U.S. Fish and Wildlife Service Headquarters, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We will not accept email or faxes. Comments and materials we receive, as well as supporting documentation, will be available for public inspection on *https://www.regulations.gov.*

Requesting Approval to Attend CoP19 as an Observer: Send your request via U.S. mail to the Division of Management Authority, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: IA, Falls Church, VA 22041; via email to *managementauthority@fws.gov;* or via fax to 703–358–2298.

FOR FURTHER INFORMATION CONTACT: For information pertaining to resolutions, decisions, and agenda items, contact Naimah Aziz, Branch Manager, Division of Management Authority, at 703–358–2028 (phone); 703–358–2298 (fax); or *managementauthority@fws.gov* (email). If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter referred to as CITES or the Convention, is an international treaty designed to control and regulate international trade in certain animal and plant species that are or may be affected by trade and are now, or potentially may become, threatened with extinction. Species are included in the Appendices to CITES, which are available on the CITES Secretariat's website at *https://cites.org/eng/app/appendices.php.*

Currently there are 184 Parties to CITES—183 countries and 1 regional economic integration organization, the European Union. On January 4, 2022, Andorra became the 184th Party to CITES. The Convention calls for regular biennial meetings of the Conference of the Parties, unless the Conference decides otherwise. At these meetings, the Parties review the implementation of CITES, make provisions enabling the CITES Secretariat in Switzerland to carry out its functions, consider amendments to the list of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of CITES. Any country that is a Party to CITES may propose amendments to Appendices I and II, as well as resolutions, decisions, and agenda items for consideration by all the Parties. Our regulations governing this public process are found in 50 CFR 23.87.

This is our second notice in a series of **Federal Register** notices that, together with a public meeting that we will hold approximately 2 to 3 months prior to CoP19, provide you with an opportunity to participate in the development of the U.S. submissions and negotiating positions for the nineteenth regular meeting of the Conference of the Parties to CITES (CoP19), which is scheduled to be held in Panama City, Panama, November 14–25, 2022. With this notice, we describe proposed resolutions, decisions, and agenda items that the United States might submit for consideration at CoP19; invite your comments and information on these proposals; and provide information on how U.S. nongovernmental organizations can attend CoP19 as observers.

We published our first CoP19-related **Federal Register** notice on March 2, 2021 (86 FR 12199), in which we requested information and recommendations on animal and plant species proposals and proposed resolutions, decisions, and agenda items for the United States to consider submitting for consideration at CoP19. A notice describing what proposals to amend the Appendices the United States might submit for consideration at CoP19 will be published separately. Comments received on our March 2, 2021, notice can be viewed at *https://www.regulations.gov* in Docket No. FWS–HQ–IA–2021–0008.

Recommendations for Resolutions, Decisions, and Agenda Items for the United States To Consider Submitting for CoP19

In response to our first notice, we received information and recommendations for possible submissions to CoP19 from the following organizations: Action for Primates, Animal Welfare Institute, Center for Biological Diversity, Costa Farms, EMS Foundation (South Africa), Environmental Investigation Agency, Friends of Animals, International Fund for Animal Welfare, International Wood Products Association, International Union for Conservation of Nature (IUCN) Species Survival Commission (SSC) Pangolin Specialist Group, League of American Orchestras, Natural Resources Defense Council, Species Survival Network, Wildlife Conservation Society, and World Wildlife Fund. We also received comments from three individuals.

We evaluated all of the recommendations submitted by the above organizations and individuals, as well as the factors described in the U.S. approach for CoP19, discussed in our March 2, 2021, **Federal Register** notice, in considering resolutions, decisions, and agenda items that the United States may submit for consideration by the Parties at CoP19. In compiling these lists, we also considered potential submissions that we identified internally. The United States may consider submitting documents on some of the issues for which we are currently undecided or not considering submitting at this time, depending on the outcome of discussions of these issues in the CITES Standing Committee at its 74th meeting (SC74; scheduled to be held March 7–11, 2022), additional consultations with range country governments and subject matter experts, or comments we receive during the public comment period for this notice.

We welcome your comments and information regarding the resolutions, decisions, and agenda items discussed below. Please review the information under **ADDRESSES** on how to submit information and comments in response to this notice.

A. What resolutions, decisions, and agenda items is the United States likely to submit for consideration at CoP19?

Due to the significant number of issues that are subject to ongoing discussions in the Standing Committee, to date we have not identified any issues for which we are likely to submit a document to CoP19. As described below, we will make a final decision on whether to submit a document to CoP19 for many issues described in this document pending the outcomes and discussions at SC74.

B. On what resolutions, decisions, and agenda items is the United States still undecided, pending additional information and consultations?

1. *CITES and zoonoses:* Since the COVID–19 pandemic, multiple nongovernmental organizations have called for CITES to address zoonotic disease risk arising from international wildlife trade. Suggestions have

included amending the Convention text, adding a ''Protocol'' to CITES identifying taxa to be regulated based on disease risk, and considering the submission of a draft resolution to improve the safety of wildlife trade, among other approaches.

Studies indicate that the number of CITES-listed animal species with ''zoonotic potential'' is significant. The United States believes that CITES has a role to play in reducing zoonotic disease emergence and spread and that any action by CITES should be part of a larger global effort to prevent zoonoses. The United States is actively participating in an ongoing intersessional working group of the Standing Committee on this issue, and we anticipate that the Standing Committee will submit a document for consideration at CoP19. Depending on the outcomes and discussion at SC74, we may submit a separate or complementary document to CoP19. We are committed to engaging with other Parties and non-Party stakeholders to develop the most effective approach and identify feasible solutions that will reduce the spread of zoonotic disease in international wildlife trade in a way that strengthens but does not overextend CITES, and makes wildlife trade healthier for people and animals. We believe that CITES provides opportunities for taking positive steps toward reducing zoonotic disease risk, and in a possible U.S. document we would consider approaches that, for example: Improve conditions for live animals during transport and pre-trade care; consider disease risk frameworks for identifying high-risk taxa in trade; and expand CITES collaboration with the World Organisation for Animal Health (OIE).

2. *CITES National Legislation Project (NLP):* The Wildlife Conservation Society (WCS) seeks to ensure that the CITES National Legislation Project (NLP) is on the CoP19 agenda and recommends that the United States submit a document proposing amendments to Resolution Conf. 8.4 (Rev. CoP15) on *National laws for implementation of the Convention,* to provide clear guidelines concerning the criteria for inclusion in Categories 1, 2, and 3 (including coverage of all CITES taxa, native and nonnative, and marine species). WCS also recommends that the United States provide support to the Secretariat to undertake an update to the CITES model law (and its translations), as well as to provide further guidance on fisheries legislation to facilitate CITES implementation. The Environmental Investigation Agency (EIA) recommends that the United States liaise with the Secretariat to share best practices from U.S. CITES implementing legislation that could be incorporated into the NLP guidance materials; support updates to the criteria for assessing legislation under the NLP; and call for the current categorizations under the NLP to be reviewed against any changes made in the NLP guidance materials.

The United States believes that the effectiveness of CITES is significantly undermined when Parties do not have adequate measures in place for implementing the Convention, and we consider the NLP to be critically important in achieving effective CITES implementation. Although we recognize that the Secretariat has placed significant focus on assisting Parties to enact adequate CITES implementing legislation, we also acknowledge that there are still too many Parties without adequate measures in place to implement CITES. We note that the Secretariat will report on the NLP at CoP19, as required by Resolution Conf. 8.4 (Rev. CoP15) on *National laws for implementation of the Convention,* and, therefore, this issue will be on the CoP19 agenda. We are evaluating the recommendations from WCS and EIA and are currently undecided, pending further consultations and the outcome of discussions at the 74th meeting of the Standing Committee (SC74), as to whether we will submit a document on this issue for consideration at CoP19.

3. *Elephants (Elephantidae):* WCS recommends that the United States seek to ensure continued reporting on implementation of Resolution Conf. 10.10 (Rev. CoP18) on *Trade in elephant specimens,* with a particular focus on the successful enforcement of new laws on domestic ivory trade; to work with other Parties, including the European Union, Japan, and others, to close their ivory markets as a matter of urgency; and ensure that the issue continues to be discussed at CoP19 as a separate agenda item.

We agree that the enforcement of domestic laws concerning ivory trade and the closure of domestic markets are actions necessary to put an end to trafficking in elephant ivory. We also recognize that unregulated legal markets can provide cover for laundering of illegal ivory and have put in place a near-total ban on commercial trade in elephant ivory in the United States. We note that there is ongoing work by the Secretariat and the Standing Committee on all of the issues related to elephants that were raised by WCS in its comments and, therefore, are undecided about submitting a document on this issue for consideration at CoP19, pending the results of this work and the outcomes and discussions at SC74.

4. *Ivory stocks and stockpile management:* WCS recommends that the United States submit a discussion document with draft decisions that call for continued review of the ivory stockpile management and disposal guidance by the Standing Committee, including its implementation and any issues encountered by Parties, and direct the Secretariat to identify and compile available templates or guidance on model legislation/regulation or standard operating procedures that have worked for Parties with large stockpiles of seized ivory. WCS also recommends that the United States submit, or co-sponsor, a document that would amend Resolution Conf. 10.10 (Rev. CoP18) to encourage the destruction of ivory stockpiles.

The United States is undecided on these issues, pending outcomes and recommendations from SC74.

5. *National Ivory Action Plans (NIAPs):* WCS recommends that the United States submit a document with proposed amendments to Resolution Conf. 10.10 (Rev. CoP18) seeking increased independent evaluation of proposed and adopted NIAPs, including progress made against them in terms of effectively reducing elephant poaching and illegal trade in ivory, and to advocate through the Standing Committee for decisions to be taken in line with the best available evidence from the Elephant Trade Information System (ETIS) and other current sources. EIA, the International Fund for Animal Welfare, and WCS also urge the United States to encourage the Secretariat to contract third-party expertise to support transparency and help distribute the workload of the NIAP process and support proactive reporting of all seizure-related data to ETIS and all relevant data on elephant mortality and poaching to Monitoring the Illegal Killing of Elephants (MIKE).

The United States considers the NIAPs, including the concrete actions contained therein and the specific deadlines for completion, to be a positive step in actively addressing illegal ivory trade. Noting that there is ongoing work on NIAPs in the Standing Committee, we are currently undecided about submitting a document on NIAPs for consideration at CoP19 and will closely evaluate reports to SC74 in making our decision.

6. *Cheetahs:* WCS recommends that the United States submit a document with draft decisions that would:

- Ensure that the illegal trade in cheetahs remains a high priority for Parties;

• request range, transit, and consumer States to enhance reporting on existing efforts to implement recommendations from the Standing Committee (SC66 and SC70);

• request further review of these issues by the Big Cats Task Force (Task Force); and

• ensure that the Standing Committee and the CoP keep this issue under review at every meeting and that efforts are prioritized, particularly in transit and consumer Parties.

While cheetahs are a key issue for the United States, we are currently undecided on whether to submit a document to CoP19 on this issue. Cheetahs are included in the Joint CITES—Convention on the Conservation of Migratory Species of Wild Animals African Carnivores Initiative and will also be considered under the Task Force. While it is unlikely that there will be meaningful progress by the Task Force in advance of CoP19, we will continue to closely monitor these efforts to determine if it will be appropriate separately to submit a document to CoP19.

7. *Pangolins (*Manis *spp.), and domestic markets for frequently illegally traded specimens:* WCS recommends that the United States submit a document on pangolins that includes draft decisions seeking to:

• Build on the reports currently being drafted by consultants, feedback from the IUCN SSC Pangolin Specialist Group, and the advice of the Animals and Standing Committees;

• build on the previous reports about domestic markets for specimens that are frequently traded illegally, to identify domestic legal or semilegal markets, or poor enforcement of technically illegal markets, that contribute to illegal hunting and trade in pangolins and pangolin products;

• make recommendations for action on these domestic markets; and

• require targeted cooperation via a Task Force or other reporting process through the Standing Committee that enables review of progress against these actions.

The United States supports consideration of actions to address domestic markets that contribute to poaching and illegal trade, but we are undecided on whether we will submit such a document on pangolins and domestic markets, pending outcomes and recommendations from SC74.

8. *Sharks and rays (Elasmobranchii spp.):* WCS urges the United States to take the lead in efforts to address the noncompliance with CITES with regard to the implementation and enforcement of the Convention for shark and ray species, including submission of a document to CoP19 with draft amendments to the Decisions 18.218–18.225 and draft amendments to Resolution Conf. 12.6 (Rev. CoP18) on *Conservation and management of sharks.* The Natural Resources Defense Council (NRDC) also suggests recommending ongoing reporting on the conservation of sharks and rays and continued focus on enhancing measures to identify and halt illegal trade in shark and ray specimens. The Species Survival Network (SSN) suggests that the United States seek continued close monitoring of sharks and rays under CITES to address issues, including resolving implementation challenges due to look-alike issues and considering Regional Fishery Bodies management measures and introduction from the sea provisions.

The conservation and sustainable management of sharks and rays are key issues for the United States. The United States will continue to closely monitor this issue and make a decision pending outcomes and recommendations from SC74.

9. *Gender Action Plan for CITES:* WWF recommends that the United States submit an agenda item for CoP19 calling for a Gender Action Plan for CITES, which could be introduced through a draft resolution. WWF suggests that gender plays an important and unacknowledged role in wildlife trade, which differentially affects people of different groups. WWF points out that CITES enforcement (including rangering), decisionmaking, and implementation could benefit from efforts to promote gender equality.

While the United States is currently undecided on how to address this recommendation, we believe it is especially important to consider gender issues in the context of CITES capacity-building (see item B. 30.).

10. *Elephants and appropriate and acceptable destinations:* WWF recommends that the United States propose an amendment to Resolution Conf. 10.10 (Rev. CoP18) on *Trade in elephant specimens,* to reflect the position of the IUCN African Elephant Specialist Group that there is no conservation benefit to taking elephants from the wild to place them in zoos. The United States has actively engaged in the Animals Committee Working Group on ''appropriate and acceptable destinations.'' At the 31st meeting of the Animals Committee (AC31; virtual 2021), the Committee agreed to put forward recommendations to SC74 that include nonbinding best-practice guidance on how to determine whether ''the trade would promote *in situ* conservation,'' in line with the provisions of paragraph 2 b) of Resolution Conf. 11.20 (Rev. CoP18) on *Definition of the term 'appropriate and acceptable destinations.'*

The United States is currently undecided on whether to submit an amendment on this issue to CoP19, and we will closely follow the discussions, outcomes, and recommendations arising from SC74 and make a decision following that meeting.

11. *Marine turtles:* WWF suggests the development of a new resolution on marine turtles to include enhanced enforcement; forensic sampling of seized specimens; effective legislation; donor assistance; and cooperation with other multilateral environmental agreements.

At CoP18, the Conference of the Parties adopted several decisions (Decisions 18.210–18.217 on *Marine turtles (Cheloniidae spp. and Dermochelyidae spp.*) that call for a large number of actions by the Parties, the Animals and Standing Committees, and the Secretariat. Activities called for include reviewing a study on the legal and illegal international trade in marine turtles; developing and/or updating management and action plans for the conservation of marine turtles; improving monitoring, detection, and law-enforcement activities for marine turtles; developing or updating, as appropriate, legislation that protects marine turtles; and working with relevant multilateral agreements to encourage communication and collaboration on the management and sustainable use of marine turtles. The United States has actively engaged in the intersessional work and will actively participate in the discussions on marine turtles at SC74. We are currently undecided on whether to support the development of a stand-alone resolution on marine turtles and will consider the outcomes of SC74 in making a decision.

12. *Asian big cats:* The World Wildlife Fund (WWF) suggested that the United States seek to prioritize the implementation of Decisions 17.226, 18.102, and 18.108 on *Illegal trade in Asian big cats (Felidae spp.),* with priority focus on Cambodia, China, Thailand, and Viet Nam, where significant concerns have been raised with regard to captive-breeding facilities.

The United States is following this issue closely and has actively engaged in the discussions during this intersessional period. Pending the outcomes and recommendations from SC74, we will determine whether to submit a document on this issue to CoP19.

13. *Totoaba and vaquita:* WWF urged the United States to redouble efforts, in close collaboration with China and Mexico, to eliminate demand for totoaba and ensure strong compliance with Decisions 18.292 and 18.293. The Center for Biological Diversity (CBD), Animal Welfare Institute (AWI), NRDC, and EIA also suggested that the United States seek to ensure that Mexico's failure to address the poaching and illegal trade in totoaba is addressed through CITES compliance procedures.

The United States remains gravely concerned about the status of the vaquita and illegal trade in totoaba and led efforts at the 18th meeting of the Conference of the Parties (CoP18; Geneva 2019) to strengthen several draft decisions considered during CoP18 to combat the illegal harvest and trade of totoaba. We will make a decision pending outcomes and recommendations from SC74.

14. *Verification of legal acquisition:* The International Wood Products Association (IWPA) recommends that the United States continue supporting work on the verification of legal acquisition of CITES specimens and the principle that legal acquisition findings are the primary responsibility of the CITES authorities of the exporting nation. IWPA commented that requiring an applicant to provide information on the entire chain of custody back to the origin of the specimen is unworkable for many manufactured goods. Further, IWPA does not consider that those applying for a CITES document should be required to provide that information, noting that information about chain of custody should not be determinative when obtaining that information is impossible or impractical and other verification tools exist.

The United States affirms that CITES Management Authorities hold the responsibility for making legal acquisition findings and supports development of guidance to assist the Parties in the practical aspects of making those findings. The United States is undecided about further work on this issue, pending outcomes and recommendations from SC74.

15. *Pangolins:* The IUCN SSC Pangolin Specialist Group requested that the United States submit agenda items addressing:

- Incentives, encouragement, and support to pangolin range countries to implement Resolution Conf. 17.10 on *Conservation of and trade in pangolins;*
- Ensuring ongoing focus on population monitoring, understanding harvest levels and supply chains, and capacity-building of frontline law enforcement to accurately identify different pangolin species and their parts and derivatives in trade;
- Taxonomic proposals that streamline the listing of pangolin species in the Appendices following Decision 18.315 on *Nomenclature of Manidae spp.;* and
- Calls for financial support to convene experts and range states to share knowledge related to ecology and monitoring; identify *in situ* and *ex situ* priorities for conservation action; research pangolin harvest and trade chains; deliver training related to identification; and implement activities from pangolin conservation action plans.

EIA requests that the United States:

- Support decisions for urgent action by pangolin range, transit, and consumer States to address the illegal trade in pangolins;
- support demand-reduction efforts, including closure of domestic markets;
- propose amendments to Resolution Conf. 17.10 on *Conservation of and trade in pangolins* that encourage Parties to eliminate demand in pangolin specimens; and
- direct the Secretariat to report on the conservation and management of pangolins to each meeting of the Standing Committee and CoP.

The United States is undecided on submitting any of these proposals or suggestions, pending outcomes and recommendations from the Standing Committee.

16. *Sea cucumbers:* CBD recommends that the United States submit a draft decision calling for a second global workshop on the status, conservation, and management of sea cucumbers.

We remain concerned with the increases in sea cucumber harvest globally and their biological vulnerability. We, therefore, seek further information from the public on the current trade and status of sea cucumbers, particularly species native to the United States, Puerto Rico, and U.S. territories in the Caribbean and the Pacific. We also seek input on the needs and objectives and goals of such a workshop. We are currently undecided on this issue and will consider further information and the outcomes and recommendations from SC74 in determining how best to address it at CoP19.

17. *Resolution Conf. 17.8 on Disposal of illegally traded and confiscated specimens of CITES-listed species:* Friends of Animals (FOA) recommends that the United States propose amendments to Resolution Conf. 17.8 to ensure consistency with the intent and requirements of CITES.

We are undecided on our actions concerning this issue pending outcomes and recommendations from SC74.

18. *Animal meat markets:* FOA recommends that the United States submit a document supporting the intent and the application of World Health Organization, OIE, United Nations Environment Programme guidance on ''Reducing public health risks associated with the sale of live wild animals of mammalian species in traditional food markets.''

Pending outcomes and recommendations from the Standing Committee through its zoonotic disease working group, the United States will consider this issue and other guidance documents related to reducing disease risk in the wildlife trade (related to item B. 1. above). The United States is particularly interested in considering options to expand the partnership between CITES and OIE.

19. *Application of Article XIII:* EIA is concerned that CITES compliance issues are not being taken seriously and urges the United States to treat the issue of noncompliance as an urgent priority. Specifically, EIA urges the United States to support a decision by the Conference of the Parties at CoP19 to implement compliance procedures in relation to Lao People's Democratic Republic, Nigeria, and Viet Nam, due to persistent noncompliance over a significant period of time and insufficient progress in addressing their role in illegal wildlife trade. EIA recommends that the United States ensure complementarity between the Article XIII and NIAP proceedings in relation to Nigeria and requests that in the future a single progress report under Article XIII proceedings be submitted, which also includes NIAP progress.

The Standing Committee at its 74th meeting will discuss the numerous ongoing CITES compliance issues, including those highlighted by EIA. The United States takes CITES compliance issues seriously. We will closely monitor the outcomes and recommendations from SC74 and determine whether it will be necessary to submit a document to CoP19 on this matter.

20. *Domestic ivory markets:* EIA recommends that the United States call on the Conference of the Parties to direct Japan to close its domestic ivory market in line with Resolution Conf. 10.10 (Rev. CoP18) on *Trade in elephant specimens,* and to set concrete, short-term deadlines for market closure.

The United States supports the recommendation in Resolution Conf. 10.10 (Rev. CoP18) that all Parties and non-Parties in whose jurisdiction there

is a legal domestic market for ivory that is contributing to poaching or illegal trade take all necessary legislative, regulatory, and enforcement measures to close their domestic markets for commercial trade in raw and worked ivory as a matter of urgency. This issue will be on the agenda for SC74, and, pending the outcomes of that meeting, we will determine whether we should submit a document on the issue to CoP19.

21. *Forensic analysis of large-scale ivory seizures:* EIA requests that the United States propose a draft decision directing the Secretariat to publish and maintain a list of countries that have made large-scale ivory seizures and whether the Parties have conducted forensic analysis and shared the results of that analysis. They also ask that we support calling for technical and financial support for conducting forensic analysis of large-scale ivory seizures.

We are undecided on this suggestion pending additional internal consultation with the FWS Office of Law Enforcement (FWS/OLE) and specifically the FWS/OLE Forensics Lab.

22. *Captive Asian big cat facilities of concern:* Decision 18.108 on *Illegal trade in Asian big cats (Felidae spp.)* directs the Secretariat, subject to external funding, to undertake a mission to those Parties in whose territories facilities keeping Asian big cats in captivity have been identified that may be of concern, with the purpose of gaining a better understanding of the operations and activities undertaken by those facilities. Noting that seven Parties have been identified as having such facilities, EIA believes that the Secretariat should be encouraged to consult with nongovernmental organizations, intergovernmental organizations, and relevant experts in preparing terms of reference both for the missions and for interim online consultations in the event the in-person missions cannot be conducted during this intersessional period. EIA urges the United States to offer technical and financial assistance to the Secretariat to develop the terms of reference and facilitate the CITES missions/interim consultations called for in the relevant decisions.

The United States has worked extensively with the Secretariat and others on this issue. In-person missions have not been able to take place during the current intersessional period to date due to the COVID–19 pandemic, and we will work with the Secretariat and others to determine if they can be undertaken prior to CoP19 or if this work should be carried over to the next intersessional period. Several issues related to Asian big cats will be on the agenda for SC74, and we will actively participate in the discussions there.

23. *Asian big cat trade:* EIA urges the United States to take action on Asian big cat trade, including promoting the creation of a centralized database of images of seized tiger skins and skins of tigers observed for sale in physical and digital markets and supporting consideration of time-bound, country-specific measures for Parties failing to comply with Asian big cat-related Resolutions and Decisions. To accomplish the latter, EIA recommends that the United States urge the Secretariat to issue a notification to relevant Parties requesting them to report on action taken to address noncompliance with CoP18 decisions and Resolution Conf. 12.5 (Rev. CoP18) on *Conservation of and trade in tigers and other Appendix-I Asian big cat species,* in time for the Secretariat to prepare a report for SC74, and for the Standing Committee to consider further time-bound, country-specific measures.

While EIA's recommendation does not specifically concern a CoP19 submission, the United States remains very concerned about the Asian big cat trade and continues to follow this issue. We will consider the outcomes and recommendations from the Standing Committee at SC74 in determining whether to submit a document on this matter to CoP19.

24. *Rhinoceroses:* Noting the worsening rhinoceros-poaching crisis in Botswana, EIA urges the United States to support decisions at CoP19 directing Botswana to strengthen its implementation of Resolution Conf. 9.14 (Rev. CoP17) on *Conservation of and trade in African and Asian rhinoceroses,* in particular on the provisions relating to anti-poaching and law-enforcement actions, including by pursuing the initiation of joint investigations and operations aimed at addressing members of organized crime networks, and to report to SC77.

The United States is currently undecided on whether to submit a document on this issue to CoP19, and we will closely follow the discussions, outcomes, and recommendations arising from SC74 and make a decision following that meeting.

25. *Decision 18.116 on Rhinoceroses (Rhinocerotidae spp.):* Noting particular concern with regard to Parties where legal domestic markets for rhinoceros parts and derivatives exist and the opportunities those markets provide for laundering illegal rhinoceros horn, and challenges to law-enforcement and demand-reduction efforts, EIA recommends that the United States support renewing Decision 18.116, concerning illegal markets for rhinoceros horn, until CoP20 and amending it to call on affected Parties to report to the Secretariat in advance of SC77 on any actions taken, and directing the Standing Committee to consider the matter.

The United States strongly supports considering actions under CITES to address domestic markets that are contributing to poaching or illegal trade. We are currently undecided on the recommendation made by EIA and will consider the outcomes and discussions from SC74 in determining how best to address this issue at CoP19.

26. *Resolution Conf. 10.14 (Rev. CoP16) on Quotas for leopard hunting trophies and skins for personal use:* SSN suggests that the United States support draft decisions or amendments to Resolution Conf. 10.14 (Rev. CoP16), aimed at strengthening the scientific oversight of annual leopard quotas and reducing overexploitation of the species, and requests Malawi, Ethiopia, and Kenya to remove or revise their quotas under this resolution. The discussion of this resolution and the current quotas for leopards from most range countries were reviewed by the Animals Committee at the 30th meeting of the Animals Committee (AC30; Geneva 2018), which made recommendations that were discussed extensively at CoP18, and decisions were taken. At CoP18, export quotas were approved for Mozambique, Namibia, South Africa, United Republic of Tanzania, Zambia, and Zimbabwe. Quotas for Kenya and Malawi should have been removed at those Parties' requests, but in what appears to have been an oversight that issue was not formally agreed to at CoP18 (see Resolution Conf. 10.14 (Rev. CoP16)). At AC31, the Animals Committee agreed to inform the Standing Committee that it considers the quotas for leopards for Botswana and the Central African Republic, as mentioned in Resolution Conf. 10.14 (Rev. CoP16), to be set at levels that are not detrimental to the survival of the species in the wild. The Committee also agreed to inform the Standing Committee that, for Ethiopia, it considers the proposed reduction of the quota for leopards in Resolution Conf. 10.14 (Rev. CoP16) to 20 trophies to be set at levels that are not detrimental to the survival of the species in the wild.

The United States is currently undecided on whether to submit a document on this issue to CoP19, and we will closely follow the discussions, outcomes, and recommendations arising

from SC74 and make a decision following that meeting.

27. *Transparency and oversight of CITES processes:* AWI encourages the United States to submit a working document seeking greater transparency in the activities and operations of the Secretariat. AWI is particularly concerned about transparency in the context of the Review of Significant Trade (RST) process where correspondence between the Secretariat and Parties in the Review, while shared with Committee members (*i.e.,* Animals, Plants, and Standing), is not made available to other Parties and observers.

We recognize the sensitivity of the information shared by Parties in response to questions rising during the RST and appreciate Parties' willingness to be honest in their communications during the review. We believe that the Secretariat's process of sharing responses with the Committees, in accordance with Resolution Conf. 12.6 (Rev. CoP18) on *Review of Significant Trade in specimens of Appendix-II species,* is appropriate, and, therefore, the United States is unlikely to submit a document specific to this issue.

Although we are unlikely to submit a document to CoP19 specifically calling for changes to the RST process, we strongly support the need for ensuring transparency in the Secretariat's activities and operations, including in its implementation of CITES decisions. We believe that this is particularly the case with regard to the selection of consultants and development of terms of reference, which we believe are crucial for delivering meaningful outputs that respond to the expectations of the Conference of the Parties when they adopt such decisions. Consequently, although we are currently undecided, we may submit a discussion document to CoP19 on this issue.

28. *Reservations:* A number of issues related to reservations have arisen following recent meetings of the Conference of the Parties, including the scope of specific reservations to amendments to Appendices I and II allowed under Article XV of the Convention and whether reservations can cover actions such as changes to an annotation to a listing and changes to taxonomy or nomenclature and the effect of specific reservations in special cases such as transferring taxa in split-listings.

The Secretariat has indicated its intention to prepare a document for SC74 addressing this issue. This is also an important issue for the United States that we are discussing internally. We are closely following the Secretariat's work and will determine whether to submit a U.S. document to CoP19 on reservations, including the potential for amendments to Resolution Conf. 4.25 (Rev. CoP18) on *Reservations,* pending the outcome of discussions at SC74.

29. *Personal and household effects:* Based on internal discussions, the United States is considering proposing an amendment to Resolution Conf. 13.7 (Rev. CoP17) on *Control of trade in personal and household effects* to designate a weight, volume, or number of specimens of certain species to be included in the list in paragraph b) iv) for which the Parties have agreed that CITES documents are not required unless the specimens being carried as a personal or household effect exceeds the weight, volume, or number specified. Items for which we are considering submitting such a proposal include American ginseng packaged and ready for retail trade, and finished musical instruments, finished musical instrument parts, and finished musical instrument accessories. We solicit information on what may be appropriate quantities if we decide to submit such a proposal.

30. *Capacity-building/combating wildlife trafficking:* At CoP18, the United States introduced the idea of a conceptual framework and resource-tracking tool for CITES capacity-building efforts (Document CoP18 Doc. 21.3). The proposed capacity-building framework sought to clarify how capacity-building advances conservation and implements CITES and aimed to coordinate and direct investments based on a Party's capacity-building needs. Although the Conference of the Parties at CoP18 did not adopt the draft resolution proposed by the United States, there was broad support for developing a CITES capacity-building framework and it adopted several decisions in support of the development of an integrated capacity-building framework to improve implementation of the Convention. The Standing Committee established a working group to develop recommendations on consolidating and integrating various compliance and capacity-building processes and how to proceed in terms of developing a capacity-building framework.

We are members of the Standing Committee's working group, and, depending on the outcomes of discussions at SC74, we will decide whether to submit a discussion document to CoP19 on this topic. Our primary goal, which we would promote in any discussion document we would submit to CoP19, would be to ensure capacity-building activities are Party-driven and coordinated.

31. *Stocks and stockpiles:* Based on internal discussions, the United States is considering submitting a discussion document on the management of stockpiled specimens, including pangolin scales, tiger specimens, rhinoceros horn, saiga horn, elephant ivory, timber, etc., and potentially recommending the development of a declaration system for stockpiles of dead specimens when an amendment is adopted to transfer a species from Appendix II to Appendix I.

32. *Compliance:* The United States is concerned that compliance considerations in CITES are becoming increasingly weakened and that Parties are not being held accountable for failing to effectively implement the provisions of the Convention. We are currently evaluating how these concerns might best be addressed and may submit a document on this issue for consideration at CoP19. Issues we are considering include timeframes for taking action, whether our concerns could be addressed in the context of a capacity-building framework, and avenues for ensuring that Scientific Authorities are empowered to do their work and that repeated failures to make scientifically robust non-detriment findings, when required, are appropriately addressed.

33. *E-permitting:* The United States is actively engaged in discussions on potential proposals regarding the issuance of electronic CITES permits. These are currently being debated in the Standing Committee's working group on electronic systems and information technologies. The working group will submit its recommendations to SC74. In general, the United States supports solutions that would ensure that any electronic CITES permit is authentic and meets all CITES permitting requirements by verifiably providing an electronic equivalent of an original paper CITES document presented with its shipment at the time of trade. Importantly, CITES documents prevent more than one authorized shipment from moving under a single-use document or unauthorized use of a multiple-use document, are presented at the time of trade, are able to be certified or validated at the time of export or reexport and canceled by the importing Party at the time of import or introduction from the sea, and enable any Party to readily verify whether the permit is valid and whether it has been used or canceled. An electronic equivalent must serve these same functions as well. Pending the outcome of discussions and recommendations arising from SC74, we may submit a

separate document on this issue to CoP19.

34. *Programming funding for CITES Decisions subject to external funding:* Implementation of many of the CITES decisions adopted by the Conference of the Parties is subject to the availability of external funding. That funding is generally provided by Parties, but also on occasion by nongovernmental organizations. Recognizing that Parties have the latitude to direct their funding in accordance with their national priorities, we believe that there may be benefit in exploring mechanisms for ensuring that external funding is programmed consistent with the priorities identified by the Standing, Animals, and Plants Committees in their working programmes. Based on those internal discussions and discussions with other key funding Parties, we may submit a discussion document to CoP19 calling for the development of such a process.

35. *50th anniversary of CITES:* The United States is considering submitting a document proposing activities to mark the 50th anniversary of CITES on March 3, 2023, as well as the 50th anniversary of its entry into force on July 1, 2025. We would seek to propose activities or events to celebrate the significant milestones of CITES over the last 50 years, and we welcome comments or suggestions regarding this issue.

C. What resolutions, decisions, and agenda items is the United States not likely to submit for consideration at CoP19, unless we receive significant additional information?

1. *Rhinoceros horn:* Citing the toll rhinoceros poaching has taken on rangers and rural communities, an individual recommends that the United States reconsider the ban on trade in rhinoceros horn and take action at CoP19 to address the issue. The United States has consistently opposed proposals to amend CITES listings to open a commercial trade in rhinoceros horn at previous meetings of the Conference of the Parties in view of the ongoing high levels of rhinoceros poaching and illegal trade in rhinoceros horn for high prices on the black market. The concept that a limited legal trade would provide a conservation benefit to rhinoceroses or that it could be sustainable within the context of the illegal trade is not supported. Information available to date does not provide satisfactory evidence that permitting trade would not fuel demand for rhinoceros horn or that effective control measures could be implemented to ensure that commercial trade would originate only from legal sources, and no proposal submitted to date has met the precautionary measures set out in Resolution Conf. 9.24 (Rev. CoP17) on *Criteria for amendment of Appendices I and II.*

The United States believes that a proposal to harvest rhinoceros horn for international trade is premature and runs the risk of exacerbating the ongoing poaching crisis, rather than resolving it. Accordingly, the United States is unlikely to submit a document on this issue but will carefully consider any proposals or discussion documents submitted for CoP19 on trade in rhinoceros horn and will develop its position based on internal discussions and public consultation.

2. *Marine turtles:* An individual suggests that, recognizing the public health risks of consuming marine turtle meat and derivatives, the United States should seek to prohibit take and consumption of all marine turtles and the development of a registration system of entities involved in take or sale of marine turtles and a traceability scheme, and call for the implementation of public awareness campaigns.

The United States is unlikely to submit a document on this issue. We note that marine turtles are protected under the U.S. Endangered Species Act and are included in Appendix I, which prohibits international trade in the taxon for primarily commercial purposes.

3. *Wildlife trade ban:* EMS Foundation (South Africa) urges the United States to seek a prohibition of all wildlife trade.

The United States is unlikely to submit a document seeking a prohibition of all wildlife trade because we recognize and support the purpose of CITES in regulating trade in listed species to ensure it is legal, does not threaten the survival of species in the wild, and that any use of wildlife and plants in trade is sustainable.

4. *Sharks and RFMOs:* WWF suggests that the United States submit a discussion document to raise the profile of failures of Regional Fishery Management Organizations (RFMOs) to effectively manage Appendix-II shark species and refer the issue to the Animals Committee and the Standing Committee.

The United States actively participates as a member of CITES and RFMOs toward ensuring the sustainability of sharks and is unlikely to submit a document on this issue to CoP19.

5. *Electronic permitting:* IWPA and the League of American Orchestras request that the United States continue supporting development and implementation of robust electronic-permitting systems.

The United States supports development and implementation of robust electronic-permitting systems through its participation in the ongoing Standing Committee's working group on electronic systems and information technologies. We are actively engaged in the Standing Committee discussions on the development of proposed amendments to relevant resolutions or decisions regarding electronic systems through that process, which will be presented to the Standing Committee at SC74. Therefore, we are unlikely to submit a document on this issue to CoP19.

6. *Permit delays and industry outreach:* IWPA encourages the United States to work closely with other Parties to find solutions that preserve the level of trade in species that is not detrimental to the survival of species in question and raises concern that listing all species in a genus (as in *Dalbergia* and *Cedrela* listings), including those that are not threatened, places unworkable administrative burdens on exporting nations.

The United States has an ongoing commitment to working with permit stakeholders to understand CITES requirements, and the United States is unlikely to submit a document on this topic to CoP19.

7. *Efficiency of permitting process:* Costa Farms, LLC, recommends that the United States engage the Parties in a discussion of CITES certificates and processes, particularly with respect to improving the efficiency of issuing CITES documents. They recommend creation of a certification program; extension of the validity period of certificates for artificially propagated plants from 6 months to 1 year; changing from paper certificates with ink signatures to a digital format; and automation of certificates using templates that allow commercial operations to print documents in-house.

The United States is unlikely to submit a document on these ideas. Resolution Conf. 12.3 (Rev. CoP18) on *Permits and certificates* establishes the use of simplified procedures to issue permits and certificates, including a process for issuance of partially completed certificate for artificially propagated plants that remain valid for a period of 3 years. The United States implements this provision by allowing submission and authorization of master files for certificate for artificially propagated plants that are valid for 3 years. As described above, the United States supports development and implementation of robust electronic-

permitting systems through its participation in the ongoing Standing Committee's working group on electronic systems and information technologies. Proposed amendments or decisions regarding electronic systems will be developed through that process and presented to the Standing Committee at SC74 and then CoP19.

8. *Addressing CITES' weaknesses identified by IPBES:* CBD suggests that the United States address the issues identified in the 2019 report of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES): ''Global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services,'' including compliance, the need for science-based quotas, enforcement, funding, combating corruption, and demand reduction.

While we believe that these are all important issues that are central to effective implementation of CITES, they are being addressed through ongoing efforts and discussions, and, therefore, we are unlikely to submit a document to CoP19 on this issue.

9. *Synthetic specimens:* CBD urges the United States to ensure that the CITES Parties consider that synthetic products of or made from CITES-listed species are included under the provisions of the Convention.

Recognizing the ongoing intersessional work on this issue, in which the United States is actively involved, we are unlikely to submit a separate document for CoP19 on synthetic specimens. The longstanding U.S. position is that specimens of CITES-listed species produced from biotechnology should be regulated under CITES as readily recognizable, if they meet the existing criteria under Resolution Conf. 9.6 (Rev. CoP16) on *Trade in readily recognizable parts and derivatives.* However, we are generally supportive of amendments to the resolution to make that explicit.

10. *Travel with instruments containing CITES species:* The League of American Orchestras recommends that the United States propose an exemption from CITES requirements of noncommercial movement of musical instruments containing CITES-listed species.

We are unlikely to submit such a proposal as we cannot propose or support the adoption of a new exemption from CITES requirements that does not exist in the Convention. We will consider other avenues for addressing the concerns of musicians and other musical instrument stakeholders in the context of possible amendments to Resolution Conf. 13.7 (Rev. CoP17) on *Control of trade in personal and household effects.*

11. *Application of a precautionary approach:* EIA reminds the United States of the importance of applying the precautionary approach in framing policy and negotiation positions under CITES.

Although the United States is currently not planning to submit an agenda item to CoP19 specifically on the precautionary approach, we routinely apply the precautionary approach where appropriate in our implementation of CITES.

12. *Domestic trade:* EIA recommends that the United States recognize that there is a mandate to address domestic trade in CITES under certain circumstances.

Although the United States supports consideration of actions to address domestic markets that contribute to poaching or illegal trade, we are unlikely to submit a document to CoP19 specifically addressing this issue. However, we will closely follow any discussions on this issue at SC74 and any recommendations arising from that meeting.

13. *Annual illegal trade reports:* EIA recommends that the United States propose amendments to relevant resolutions to make failure to submit those reports subject to noncompliance proceedings; ensure transparency and accountability in relation to illegal trade reports; and strengthen law-enforcement responses to illegal trade in CITES species.

The United States is a strong supporter of the CITES Illegal Trade Report, and all Parties are urged to submit annual illegal trade reports in accordance with the recommendations of the Conference of the Parties. However, at this time, the United States does not support initiating compliance measures against non-reporting Parties given that the CITES annual illegal trade report was developed recently and was not intended to be subject to compliance measures. Therefore, we are unlikely to submit a document on this issue to CoP19.

14. *Elephants:* EIA suggests that the United States support maintenance of the ban on international ivory trade, including by rejecting any down-listing proposals for African elephants.

The United States remains concerned about the status of elephants in the wild and the trafficking of ivory. Although we are unlikely to submit a document on this issue, we will carefully consider any proposals or discussion documents submitted to CoP19 on trade in elephant ivory, particularly from range countries, and will develop our position based on internal discussions and public consultation on species proposals to amend the Appendices submitted by other Parties.

15. *Rhinoceros-horn trade ban:* EIA suggests that the United States oppose any proposals that would allow international trade in rhinoceros horn, including through the exploitation of CITES exemptions for specimens bred in captivity.

The United States is unlikely to submit a document on this issue but will carefully consider any proposals or discussion documents submitted to CoP19 on trade in rhinoceros horn, particularly from range states, and we will develop our position based on internal discussions and public consultation on species proposals to amend the Appendices that are submitted by other Parties.

16. *Funding for future meetings of the Conference of the Parties:* Concerned with the increasing size and cost of meetings of the Conference of the Parties, SSN recommends that the United States submit draft decisions to CoP19 directing the Secretariat and the Standing Committee to explore funding mechanisms with the aim of guaranteeing that future meetings of the Conference of the Parties will not have to be postponed or withdrawn for financial reasons.

The United States shares SSN's concerns with regard to the need to address the increasing size and cost of CITES meetings and will continue to work through the Standing Committee's Finance and Budget Subcommittee and the Conference of the Parties to address these issues. Currently, we do not intend to submit draft decisions on this matter to CoP19.

17. *Trade in* Macaca fascicularis *(Long-tailed macaque):* SSN suggests the United States submit a discussion document on trade in long-tailed macaques, which includes draft decisions recommending that trading Parties agree to commit to greater oversight of the burgeoning trade in this species. Action for Primates suggests that the United States explore steps CITES could take to investigate possible trade violations related to trade in this species and consider enforcement actions, where appropriate.

Although the United States is unlikely to submit a document, we continue to follow the discussion of the trade in this species by the Animals Committee, including through both the Review of Significant Trade and review of captive-bred and ranched specimens.

18. *International trade in frogs for consumption:* SSN recommends that the United States submit a discussion document related to international trade in frogs for consumption, to ensure that this trade does not threaten species in the wild.

We recognize trade in this taxon is significant, but we believe this document should be submitted by range States. Therefore, the United States does not currently plan to submit a document related to this issue to CoP19.

19. *Introduction from the Sea:* SSN suggests that the United States take action to ensure that CITES continues to monitor and, where needed, actively enhance implementation of the provisions of introduction from the sea.

These issues are already considered in the context of Resolution Conf. 14.6 (Rev. CoP16) on *Introduction from the Sea,* and, therefore, we are unlikely to submit a document on this issue to CoP19.

20. *Reemphasizing the need for CITES and improving its implementation:* In the lead-up to the 50th anniversary of the agreement of the Convention text, AWI recommends that the United States submit a draft resolution reemphasizing the need for CITES and improving its implementation. AWI suggests that such a draft resolution could address a number of issues, including promoting capacity-building, urging the use of best available science in CITES decisionmaking; embracing the precautionary principle; calling for greater transparency and accountability; and strengthening national CITES implementing laws.

We strongly agree with all of the concepts raised in AWI's comment but note that these concepts are already reflected in existing resolutions. As a result, we are unlikely to submit a document on this issue to CoP19.

21. *Candidate-species listing tool:* AWI recommends that the United States submit a document that proposes a formal process whereby, between CoPs, species that may warrant CITES protections can be identified and research undertaken to assess the merits of including them in the Appendices.

The United States acknowledges the responsibility of each Party to monitor trade and status of species not included in the Appendices, particularly native species, to determine if significant levels of international trade may affect a species' conservation status such that it should be considered for inclusion in the Appendices. Organizations that collect and monitor trade levels in species that are not regulated under CITES are encouraged to provide that information to the Parties for their consideration. We also recognize the role of Parties in submitting proposals to a CoP, given limited resources and existing mechanisms. Therefore, the United States is unlikely to propose a candidate-species listing tool to CoP19.

22. *Taxa-specific assessments and/or workshops:* AWI recommends that the United States submit a working document that seeks the preparation of comprehensive assessments and/or the planning of workshops to identify and prioritize the genera or species within particular taxa that most warrant inclusion in the Appendices.

While the United States, in collaboration with State wildlife agencies and the Association of Fish & Wildlife Agencies (AFWA), has conducted taxa-specific assessments and workshops for some U.S. native species, it has done so to monitor the status and trade of native species. We have found those workshops to be informative and possibly a 'best practice,' but we are cognizant that each Party determines how best to monitor the status of and trade in its native species. We also recognize the role of Parties in submitting proposals to a CoP, given limited resources and existing mechanisms. Therefore, the United States is unlikely to submit a document on this issue to CoP19.

23. *Law Enforcement Management Information System (LEMIS) database:* AWI recommends that the United States consider hosting a side event at CoP19 to explain the origins, maintenance, and benefits of the LEMIS database in order to encourage other Parties to develop and implement similar databases in their countries.

Currently, our position is that we are unlikely to submit a request to host such an event at CoP19. However, if other Parties express an interest in this issue, we will consider hosting a workshop on this topic. We will further consider this suggestion pending additional internal consultation in FWS/OLE.

24. *Paperless CITES meetings:* AWI recommends that the United States submit a working document to reinitiate discussions for reducing the environmental footprint of CITES meetings, including by striving to conduct paperless meetings, reducing or eliminating the use of plastic products, considering alternative meeting arrangements (*e.g.,* hybrid meetings, including hybrid meetings using hub cities), and ensuring availability of vegan and vegetarian food items and meals.

We note that the organization of CITES meetings is an ongoing discussion in the Standing Committee, and, therefore, we are unlikely to submit a document on this issue to CoP19.

25. *Holding a virtual CoP19:* A member of the public urges the United States to suggest that in-person meetings of the Conference of the Parties be cancelled and held virtually instead.

The United States believes that in-person meetings foster important collaboration and cooperation among Parties and stakeholders, and we support holding in-person meetings when possible, based on safety and logistical considerations. Therefore, we are unlikely to seek that CoP19 be held virtually, unless it cannot be held safely in person.

Request for Information and Comments

We invite information and comments concerning any of the possible CoP19 species proposals, resolutions, decisions, and agenda items discussed above. You must submit your information and comments to us no later than the date specified in **DATES**, above, to ensure that we consider them.

Observers

Article XI, paragraph 7, of CITES states that ''Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one-third of the Parties present object:

(a) International agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and

(b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located. Once admitted, these observers shall have the right to participate but not to vote.''

Persons wishing to be observers representing international nongovernmental organizations (which must have offices in more than one country) at CoP19 may request approval directly from the CITES Secretariat. Persons wishing to be observers representing U.S. national nongovernmental organizations at CoP19 must receive prior approval from the U.S. Division of Management Authority (**ADDRESSES**). Once we grant our approval, a U.S. national nongovernmental organization is eligible to register with the Secretariat and must do so at least 6 weeks prior to the opening of CoP19 to participate in the meeting as an observer. Individuals who are not affiliated with

an organization may not register as observers. An international nongovernmental organization with at least one office in the United States may register as a U.S. nongovernmental organization if it prefers.

An organization seeking approval from our office to attend CoP19 as an observer must include in their request evidence of their technical qualifications in protection, conservation, or management of wild fauna or flora, for both the organization and the individual representative(s). The request must also include copies of the organization's charter and any bylaws, and a list of representatives it intends to send to CoP19. Organizations seeking approval for the first time should detail their experience in the protection, conservation, or management of wild fauna or flora, as well as their purposes for wishing to participate in CoP19 as an observer. An organization we have approved within the past 5 years as an observer to a meeting of the Conference of the Parties does not need to provide as much detailed information concerning its qualifications as an organization seeking approval for the first time. These requests should be sent to the Division of Management Authority at the address provided in **ADDRESSES**, above; via email to *managementauthority@fws.gov;* or via fax to 703–358–2298.

Once we approve an organization as an observer, we will direct them to the location on the CITES website where they can obtain instructions for registering with the CITES Secretariat and also obtain logistical information about the meeting. A list of organizations approved for observer status at CoP19 will be available upon request from the Division of Management Authority immediately prior to the start of CoP19.

Future Actions

The CITES Secretariat will prepare a provisional agenda for CoP19 following the submission of documents for the meeting. We will publish the CoP19 provisional agenda in the **Federal Register** and on our website, at *https://www.fws.gov/international.*

The United States must submit any draft resolutions, decisions, or agenda items for discussion at CoP19 to the CITES Secretariat 150 days prior to the start of the meeting (*i.e.,* by June 17, 2022). To meet this deadline and prepare for CoP19, we have developed a tentative U.S. schedule. We will consider all available information and comments we receive during the comment period for this **Federal Register** notice as we decide which proposed resolutions, decisions, and agenda items the United States will submit for consideration by the Parties. Approximately 4 months prior to CoP19, we will post on our website an announcement of the draft resolutions, draft decisions, and agenda items submitted by the United States for consideration at CoP19.

Through a series of additional notices and website postings in advance of CoP19, we will inform you about preliminary negotiating positions on resolutions, decisions, and amendments to the Appendices proposed by other Parties for consideration at CoP19. We will also publish an announcement of a public meeting to be held approximately 2 to 3 months prior to CoP19, to receive public input on our tentative negotiating positions regarding CoP19 issues.

The procedures for developing U.S. documents and negotiating positions for a meeting of the Conference of the Parties to CITES are outlined in 50 CFR 23.87. As noted in paragraph (c) of that section, we may modify or suspend the procedures outlined there if they would interfere with the timely or appropriate development of documents for submission to the CoP and of U.S. negotiating positions.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, please be aware that your entire comment—including your personal identifying information—may be made publicly available. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review; however, we cannot guarantee that we will be able to do so.

Authors

The primary authors of this notice are Anne St. John and Dara Satterfield, Division of Management Authority, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Signing Authority

The Director, U.S. Fish and Wildlife Service, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the U.S. Fish and Wildlife Service. Martha Williams, Principal Deputy Director Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service, approved this document on March 2, 2022, for publication.

Madonna Baucum,

Regulations and Policy Chief, Division of Policy, Economics, Risk Management, and Analytics, Joint Administrative Operations, U.S. Fish and Wildlife Service.

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DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–33457; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before February 19, 2022, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by March 22, 2022.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov,* 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before February 19, 2022. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your

comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

COLORADO

Larimer County

Scott Apartments and Garage, The, 900 South College Ave., Fort Collins, SG100007550

GEORGIA

Muscogee County

Rose Hill School, 433 21st St., Columbus, SG100007533

ILLINOIS

Cook County

Muhammad, The Honorable Elijah, House, 4847 South Woodlawn Ave., Chicago, SG100007536

MAINE

York County

Marginal Way, Waterfront pedestrian path between 65 Perkins Rd. to 93 Shore Rd., Ogunquit, SG100007535

MINNESOTA

Hennepin County

St. Olafs Norwegian Lutheran Church, 2901 Emerson Ave. North, Minneapolis, SG100007534

OKLAHOMA

Kay County

Ponca City Coca-Cola Bottling Company, 511 South 1st St., Ponca City, SG100007541

WBBZ Radio Station, 1601 East Oklahoma Ave., Ponca City, SG100007542

Oklahoma County

First Unitarian Church of Oklahoma City, 600 NW 13th St., Oklahoma City, SG100007543

Bradford, William L., Building (Red Brick Warehouses of Oklahoma City TR), 27 East Sheridan Ave., Oklahoma City, MP100007545

Seminole County

Seminole High School, 501 North Timmons St., Seminole, SG100007546

PENNSYLVANIA

Clarion County

Memorial Church of Our Father, 110 Church St., Foxburg Borough, SG100007547

Cumberland County

Heishman Mill, 1215 Creek Rd., West Pennsboro Township, SG100007548

Erie County

Corry Historic District, Roughly bounded by Smith St., Maple Ave., Mill and Church Sts., 2nd and 1st Aves., Allen, Mott, and Grace Sts., Corry, SG100007549

VIRGINIA

Loudoun County

Vandeventer, Dr. Joseph, House, 39901 Highfield Park Ln., Leesburg vicinity, SG100007538

Page County

Koontz-Cave House, 5329 Farmview Rd., Stanley vicinity, SG100007537

Pulaski County

Calfee Training School, 1 Corbin-Harmon Dr., Pulaski, SG100007539

Richmond Independent City

Clovelly, 337 Clovelly Rd., Richmond, SG100007540

WYOMING

Converse County

Old Douglas Armory (Depression Era Federal Projects in Wyoming MPS), 400 West Center St., Douglas, MP100007532

Authority: Section 60.13 of 36 CFR part 60.

Dated: February 23, 2022.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2022–04717 Filed 3–4–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with Sections 223 and 284 (19 U.S.C. 2273 and 2395) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) issued during the period of January 1, 2022 through January 31, 2022.

This notice includes summaries of initial determinations such as Affirmative Determinations of Eligibility, Negative Determinations of Eligibility, and Determinations Terminating Investigations of Eligibility within the period. If issued in the period, this notice also includes summaries of post-initial determinations that modify or amend initial determinations such as Affirmative Determinations Regarding Applications for Reconsideration, Negative Determinations Regarding Applications for Reconsideration, Revised Certifications of Eligibility, Revised Determinations on Reconsideration, Negative Determinations on Reconsideration, Revised Determinations on remand from the Court of International Trade, and Negative Determinations on remand from the Court of International Trade.

Affirmative Determinations for Trade Adjustment Assistance

The following certifications have been issued.

TA–W No.	Subject firm	Location	Reason(s)
96,783	Camcar LLC	Rochester, IN	Customer Imports of Articles.
96,936	North Texas PPE, LLC	Frisco, TX	Increased Aggregate Imports.
96,948	Nabors Drilling Technologies USA, INC	Williston, ND	Increased Aggregate Imports.
96,951	PremiumEstore LLC	Virginia Beach, VA	Increased Aggregate Imports.
96,957	Protective Health Gear	Paterson, NJ	Increased Aggregate Imports.
98,011	Terumo Blood and Cell Technologies	Lakewood, CO	Shift in Production to an FTA Country or Beneficiary.
98,011A	Terumo Blood and Cell Technologies	Lakewood, CO	Shift in Production to an FTA Country or Beneficiary.
98,053	Amphenol Spectra-Strip	Hamden, CT	Increased Customer Imports.
98,062	Carlisle Interconnect Technologies	Kent, WA	Shift in Production to an FTA Country or Beneficiary.
98,065	Mondelez Global LLC Fair Lawn Bakery	Fair Lawn, NJ	Increased Customer Imports.
98,079	Showa Best Glove Inc	Menlo, GA	Shift in Production to an FTA Country or Beneficiary.
98,080	Scema LLC	Mason City, IA	Actual/Likely Increase in Imports following a Shift Abroad.

TA–W No.	Subject firm	Location	Reason(s)
98,089	Kemper Valve & Fittings Corp., Oil, Gas and Marine Division.	Island Lake, IL	Increased Customer Imports.
98,092	Luminant Power LLC, Zimmer Power Plant	Moscow, OH	Increased Customer Imports.
98,109	FDP Virginia, Inc	Tappahannock, VA	Increased Company Imports.
98,110	TE Connectivity	Norwood, MA	Shift in Production to an FTA Country or Beneficiary.
98,114	Kellogg USA, LLC	Battle Creek, MI	Shift in Production to an FTA Country or Beneficiary.
98,120	Conesys	Torrance, CA	Shift in Production to an FTA Country or Beneficiary.
98,121	Borg Warner, Transmission Products LLC Division.	Frankfort, IL	Shift in Production to an FTA Country or Beneficiary.
98,132	Marelli North Carolina USA, LLC	Sanford, NC	Shift in Production to an FTA Country or Beneficiary.
98,140	Kauffman Engineering	Lawrenceville, IL	Shift in Production to an FTA Country or Beneficiary.
98,141	Kauffman Engineering	Lebanon, IN	Shift in Production to an FTA Country or Beneficiary.
98,145	El Paso Times	El Paso, TX	Shift in Production to an FTA Country or Beneficiary.
98,154	Apical Industries dba DART Aerospace LTD	Vista, CA	Shift in Production to an FTA Country or Beneficiary.

Negative Determinations for Trade Adjustment Assistance

The following investigations revealed that the eligibility criteria for TAA have not been met for the reason(s) specified.

TA–W No.	Subject firm	Location	Reason(s)
96,784	Delta Galil Industries	Williamsport, PA	No Shift in Services or Other Basis.
98,015	Ensono, LLC	Conway, AR	Workers Do Not Produce an Article.
98,016	Web Industries, Inc CAD Cut Division	Middlesex, VT	No Import Increase and/or Production Shift Abroad.
98,020	AGCO LLC	Omaha, NE	No Import Increase and/or Production Shift Abroad.
98,029	RealPage, Inc	Richardson, TX	Workers Do Not Produce an Article.
98,064	Columbia Sportswear Company	Portland, OR	Workers Do Not Produce an Article.
98,073	Liberty Mutual Insurance Company	Portland, OR	Workers Do Not Produce an Article.
98,077	Melissa & Doug, LLC	Wilton, CT	No Sales or Production Decline/Shift in Production (Domestic Transfer).
98,086	PGI, Inc	Colorado Springs, CO	Workers Do Not Produce an Article.
98,087	PerkinElmer Health Sciences, Inc	Shelton, CT	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,097	Verizon Business Network Services Inc	Irving, TX	Workers Do Not Produce an Article.
98,098	Micron Technology, Inc	Meridian, ID	Workers Do Not Produce an Article.
98,113	Citibank, N.A	Sioux Falls, SD	Workers Do Not Produce an Article.
98,116	Ascenda USA Inc., d/b/a 24–7 Intouch	Aurora, CO	Workers Do Not Produce an Article.
98,126	N26 Inc	New York, NY	Workers Do Not Produce an Article.
98,130	WSP USA Inc	Ephrata, PA	Workers Do Not Produce an Article.
98,131	Flabeg Technical Glass	Naugatuck, CT	No Import Increase and/or Production Shift Abroad.
98,134	Acco Brands USA LLC	Ogdensburg, NY	Workers Do Not Produce an Article.
98,137	Meridian Medical Management	Windsor, CT	Workers Do Not Produce an Article.
98,139	General Motors Toledo Transmission	Toledo, OH	No Sales or Production Decline/Shift in Production (Domestic Transfer).
98,146	Experis US Inc	Winston-Salem, NC	Workers Do Not Produce an Article.

Determinations Terminating Investigations for Trade Adjustment Assistance

The following investigations were terminated for the reason(s) specified.

TA–W No.	Subject firm	Location	Reason(s)
98,068	Poly	Austin, TX	Invalid Petition.
98,082	US Well Services	Pleasanton, TX	Ongoing Investigation in Process.
98,082A	US Well Services	San Angelo, TX	Ongoing Investigation in Process.
98,083	US Well Services	Pleasanton, TX	Ongoing Investigation in Process.
98,083A	US Well Services	San Angelo, TX	Ongoing Investigation in Process.
98,111	Medtronic PLC	Warsaw, IN	Existing Certification in Effect.
98,115	Rogue Truck Body	Kerby, OR	Petitioner Requests Withdrawal.
98,118	Setterstix Corporation	Cattaraugus, NY	Petitioner Requests Withdrawal.
98,135	General Motors Components Holdings, LLC	Rochester, NY	Petitioner Requests Withdrawal.

Revised Certifications of Eligibility

The following revised certifications of eligibility to apply for TAA have been issued.

TA–W No.	Subject firm	Location	Reason(s)
97,112	rPlanet Earth Los Angeles LLC	Vernon, CA	Worker Group Clarification.

I hereby certify that the aforementioned determinations were issued during the period of January 1, 2022 through January 31, 2022. These determinations are available on the Department's website *https://www.dol.gov/agencies/eta/tradeact* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 4th day of February 2022.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2022–04713 Filed 3–4–22; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents notice of investigations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) started during the period of January 1, 2022 through January 31, 2022.

This notice includes instituted initial investigations following the receipt of validly filed petitions. Furthermore, if applicable, this notice includes investigations to reconsider negative initial determinations or terminated initial investigations following the receipt of a valid application for reconsideration.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. Any persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Administrator, Office of Trade Adjustment Assistance, at the address shown below, no later than ten days after publication in **Federal Register**.

Initial Investigations

The following are initial investigations commenced following the receipt of a properly filed petition.

TA–W No.	Subject firm	Location	Inv start date
98,154	Apical Industries dba DART Aerospace LTD	Vista, CA	1/5/2022
98,155	Slant/Fin Corporation	Greenvale, NY	1/5/2022
98,156	Sensata Technologies	Carpinteria, CA	1/6/2022
98,157	Bruker Handheld	Kennewick, WA	1/10/2022
98,158	MaraNatha-Hain Celestial	Ashland, OR	1/10/2022
98,159	CNH Industrial	Burlington, IA	1/11/2022
98,160	Superior Industries	Fayetteville, AR	1/11/2022
98,161	Aspen Surgical Products	Coralville, IA	1/12/2022
98,162	Carlson Paving Products (a subsidiary of Astec, Inc.)	Tacoma, WA	1/12/2022
98,163	Hexcel Corporation	Kent, WA	1/12/2022
98,164	Providence Health & Services	Mission Hills, CA	1/13/2022
98,165	Safari Land LLC	Ontario, CA	1/13/2022
98,166	ZF	Lebanon, TN	1/13/2022
98,167	Eca by Dekko	Shelton, CT	1/14/2022
98,168	The Hain Celestial Group, Inc	Lake Success, NY	1/14/2022
98,169	Alexander Dennis	Nappanee, IN	1/18/2022
98,170	Alexander Dennis	Peru, IN	1/18/2022
98,171	NRI Electronic	Rochester, MN	1/20/2022
98,172	Moxie Solar	North Liberty, IA	1/21/2022
98,173	Resolute Forest Products, Inc	Calhoun, TN	1/21/2022
98,174	Gannett Company, Inc	Stockton, CA	1/24/2022
98,175	Boyd Corporation	Portland, OR	1/25/2022
98,176	Nexplore USA	Minneapolis, MN	1/25/2022

TA–W No.	Subject firm	Location	Inv start date
98,177	Seneca Sawmill Company	Eugene, OR	1/25/2022
98,178	Silarx Pharmaceuticals, Inc	Carmel Hamlet, NY	1/25/2022
98,179	Setterstix	Cattaraugus, NY	1/26/2022
98,180	Siemens Industry Inc	Omaha, NE	1/26/2022
98,181	Sony DADC	Terre Haute, IN	1/26/2022
98,182	Electrolux Home Products, Inc	Memphis, TN	1/27/2022
98,183	M–D Metal Source	West Columbia, SC	1/27/2022
98,184	United Parcel Service General Service dba UPS Global Business Services Division	Dunmore, PA	1/27/2022
98,185	Element Electronics	Winnsboro, SC	1/28/2022

A record of these investigations and petitions filed are available, subject to redaction, on the Department's website *https://www.dol.gov/agencies/eta/tradeact* under the searchable listing or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 4th day of February 2022.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2022–04714 Filed 3–4–22; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Request for Comment

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Request for comments.

SUMMARY: The Department of Labor through the Bureau of Labor Statistics (BLS) is currently soliciting comments concerning the planning, development, and implementation of a new National Longitudinal Survey of Youth (NLSY) cohort.

DATES: Written comments must be submitted by the methods listed in the **ADDRESSES** section of this notice on or before May 6, 2022.

ADDRESSES: You may submit written comments by one of the following methods:

On-line: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: nlsy26info@bls.gov.

FOR FURTHER INFORMATION CONTACT: Safia Abdirizak, Economist, Bureau of Labor Statistics, *abdirizak.safia@bls.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

BLS is currently developing plans for a new NLSY cohort. The BLS provided Congress with a 5-year development plan, which would culminate in fielding a first round of collection in 2026. This development plan is available in section IV below and at *https://www.bls.gov/nls/nlsy26.htm.* As part of this process, BLS is committed to engaging with new and experienced users of NLSY data to maximize the eventual utility of the new NLSY cohort. This request for information is one avenue of this engagement plan. The development of a new NLSY cohort will build upon BLS experience and analysis of its two ongoing NLSY cohorts.

1. National Longitudinal Survey of Youth 1979 (NLSY79)

The NLSY79 sample is composed of 12,686 young men and women who were born in the years 1957 to 1964. Data were first collected in 1979, when sample members were ages 14–22. In December 2021, BLS completed round 29 of data collection with NLSY79 sample members who were ages 55 to 63. BLS has followed this cohort of late Baby Boomers for over 40 years, recording their lives from their teens into their 50s and early 60s.

2. National Longitudinal Survey of Youth 1997 (NLSY97)

The NLSY97 began over 20 years ago with the collection of data from a sample of 8,984 youths who were born in the years 1980 to 1984. The sample members were ages 12–16 as of December 31, 1996. In Fall 2021, BLS began round 20 of data collection for this cohort with sample members ages 36 to 41.

More information about the ongoing NLSY cohorts is available at *https://www.bls.gov/nls/.*

The longitudinal approach of the NLSY cohorts provides data to economists, sociologists, and other researchers in government, academia, and private organizations to answer such questions as how wages change over time, how schooling and training contribute to the development and maintenance of skills to obtain and keep good jobs over one's career, how individuals navigate work and family responsibilities, and how individuals plan for retirement as their careers come to an end. To continue building on these longstanding strengths of the NLSY cohorts, BLS envisions that a new youth cohort would cover a broad range of topics related to labor market outcomes for a new generation entering the labor force.

Respondents in previous NLSY cohorts have been asked a core set of questions that provide extensive information on employment, training, education, income, assets, marital status, fertility, health, attitudes toward work, experiences with the criminal justice system, household composition, and occupational and geographical mobility. In addition, the previous cohorts were administered cognitive assessments. BLS anticipates that the new youth cohort will cover these same topics and include assessments of cognitive and non-cognitive skills, thus enabling the study of educational experiences, achievement, cognitive and non-cognitive skills, and the transition from school to work; training programs and training in the workplace; the value of early-career job exploration; geographic mobility; relationships between the workplace and the well-being of the family and family transitions; drug and alcohol use; juvenile delinquency and criminal behavior; fertility and childbearing; and employment and earnings of workers.

As with past NLSY cohorts, a new cohort would collect detailed information about each job held, including start and stop dates for each job and characteristics of each job such as wages, hours, occupation, and industry. Information about periods when no jobs are held would also be collected. Detailed information would be collected on education and training, and events such as marriage and divorce, as well as fertility, all of which affect labor market choices.

More information about the NLSY26 cohort and current BLS plans is available at *https://www.bls.gov/nls/nlsy26.htm.*

II. Current and Planned Engagement

In October 2020, the National Science Foundation funded a ''Shaping a New National Longitudinal Survey of Youth''

conference, which brought together academics from many disciplines, leaders from federal agencies, and independent researchers to share information about previous achievements of the NLSY cohorts, identify emerging and ongoing needs for studying upcoming workforce generations, and discuss how a new cohort could meet those needs. The conference served as a building block for additional stakeholder and user outreach for planning the NLSY26 cohort.

In addition, BLS has begun extensive consultation with stakeholders in government, academia, research and policy organizations, users of NLS products, and relevant advisory committees. BLS has consulted with members of its NLS Technical Review Committee and conducted outreach meetings with several government agencies including the Department of Justice, National Institute for Child Health and Human Development, Department of Health and Human Services, and the National Center for Educational Statistics.

BLS is currently planning for several additional outreach activities. First, BLS plans to engage with stakeholder organizations, such as the Council of Professional Associations on Federal Statistics (COPAFS), the Association of Public Data Users (APDU), the American Association for Public Opinion Research (AAPOR), the American Statistical Association (ASA), the American Economic Association (AEA), Population Association of America (PAA), and others, to inform them of BLS's current plans. This engagement will also be used to encourage their members to submit feedback to this **Federal Register** Notice and other future planned activities. In addition, BLS is planning to issue a user survey, host focus groups on various topics, and make available informational materials to enable feedback and insight from the stakeholder community's broad range of knowledge and interest. Each part of the current plan is described further below.

Informational Materials. NLSY informational materials will contain items to support organizations or individuals interested in learning more about the current NLSY cohorts and upcoming plans for the NLSY26 cohort. The materials will include sample email templates that entities can use to encourage their constituents to submit input, as well as presentations and fact sheets on a variety of content areas to support a discussion that would yield feedback. Users can submit feedback through the user survey and/or this **Federal Register** Notice.

User Survey. This survey will be designed to gain information from a wide range of stakeholders and data users while imposing a low burden on respondents. The proposed survey will ask about users' satisfaction with past questionnaire content and data access, as well as their priorities for a new youth cohort to inform BLS of anticipated research needs in the future. The user survey is available at the link below: *https://www.bls.gov/nls/nlsy26.htm.*

Focus Groups. A series of focus groups will be conducted to gather more detailed input and provide greater community engagement. These focus groups will include introductory information about NLSY cohorts to be accessible to a wide audience. The BLS will tailor the discussions towards survey features that are relevant to the associated user communities. These focus groups will seek feedback from both targeted stakeholders and user groups. BLS will conduct a series of six virtual sessions regarding: (1) Childhood and Family Retrospective; (2) Physical Health, Environment, and Climate; (3) Mental Health; (4) Employment, Jobs, and the Future of Work; (5) Innovations in International Surveys; and (6) Think tanks/Research organizations/Non-profits. Each session will involve 7 to 9 participants, representing a range of stakeholders and users with expertise in the session topic areas. These sessions may cover survey content and survey objectives, as well as usability and accessibility of data files for a new youth cohort.

III. Additional Information-Gathering Activities

In tandem with the user engagement activities described above, the BLS is conducting several activities to gather information that is relevant to its development of a new NLSY cohort. BLS has funded four content panels to provide opportunities for experts in different subject areas to make sure that emerging ideas, best practices, and relevant examples are brought forward for consideration for an NLSY26. Four panels are scheduled in FY2022 regarding: (1) Family and Early Childhood Retrospectives; (2) K–12 Education and Cognition; (3) Health and Environment; and (4) Department of Defense Initiatives and Assessments. Each panel is expected to have 4–7 members who will meet several times over the course of 3–5 months before determining their recommendations.

BLS has also funded a retrospective analysis of data from the NLSY79 and NLSY97 cohorts. This analysis will document past usage of different topics and variables, examine the publications that resulted from this usage, and compare the NLSY cohorts to other major longitudinal surveys and other BLS household surveys to identify areas of overlap.

Finally, BLS has funded a study to evaluate alternative (non-survey) data sources that may potentially be incorporated in the new NLSY cohort to improve accuracy, increase granularity, provide information on new topics, and/or reduce respondent burden. This study will include a broad scan to identify potentially useful sources, analyses to develop potential use cases, and information-gathering to allow assessment of the feasibility and value of each use case.

IV. NLSY26 Development Plan

As submitted to Congress, the following 5-year development plan would yield implementation of a new NLSY cohort in Fiscal Year 2026.

FY	Major tasks
2020	Planning.
2021	Stakeholder outreach, including conferences and web seminars; and continue planning, including content panels, assessments of sample frames, dissemination needs, and vendor capabilities.
2022	Continue content panels and other design activities (including sampling, survey, materials, dissemination).
2023	Complete content panels, continue design, and begin survey development (sampling, survey, questionnaire, materials, dissemination, and systems work).
2024	Continue survey and systems development and begin pretesting preparations.
2025	Pretest fielding, revisions to systems and the survey resulting from the pretest, and preparation for round 1 screening and data collection to occur in 2026.

V. Desired Focus of Comments

As BLS pursues the current and planned engagement and information-gathering activities described above to support development of a new NLSY cohort, BLS is also interested in hearing directly from the public in response to this FRN. BLS is particularly interested in comments and recommendations on the following aspects of the new NLSY cohort:

- Questionnaire content
- Survey methodology
- Sampling
- Data dissemination

The BLS welcomes comments on any aspect of the above areas and is especially interested in comments on:

- Research questions that a new cohort of the National Longitudinal Surveys program would address at different points in the life course.
- The distinctive role of NLSY cohorts among the range of survey and non-survey data sources.
- Factors that inform researchers' choice of data sources.
- Modifications in the coverage of specific topics compared to previous NLSY cohorts. This could include any gaps in the current data, 'must keep' elements in the current data, or elements that are less valuable.
- Uses of data from a new NLSY cohort that BLS should anticipate and prioritize (*e.g.,* training of young researchers, benchmarking specialized samples, policy analysis, cross-cohort comparisons, basic research on human behavior, etc.).
- Design and implementation features of a new NLSY cohort that users will find most valuable (*e.g.,* accessible public use files, frequency of data collection, availability of biometric measures, oversamples of specific populations, linkage possibilities to selected administrative data, ease of use of data, alignment with other surveys, etc.).
- New social and economic trends that are important to consider in designing a new NLSY cohort.
- Any other issues BLS should consider in developing a new NLSY cohort.

In addition, BLS is open to hearing from the public about how to improve its current stakeholder engagement plans to promote equitable and diversified feedback as a new NLSY cohort is developed.

Comments submitted in response to this notice will be summarized and made available at *https://www.bls.gov/nls/nlsy26.htm.*

Signed at Washington, DC, on March 1, 2022.

Eric Molina,

Acting Chief, Division of Management Systems.

[FR Doc. 2022–04712 Filed 3–4–22; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Susan Harwood Training Grant Program, Workplace Safety and Health Training on Infectious Diseases, Including COVID–19 Grants

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of availability of funds and funding opportunities.

SUMMARY: This notice announces availability of $3,257,710 for Susan Harwood Training Grant Program Workplace Safety and Health Training on Infectious Diseases, Including COVID–19 grants, for non-profit organizations to conduct training for employers and workers on infectious diseases, including COVID–19 safety and health hazards in the workplace.

DATES: Grant applications for Susan Harwood Training Program Workplace Safety and Health Training on Infectious Diseases, Including COVID–19 grants, must be received electronically by the *Grants.gov* system no later than 11:59 p.m., ET, on May 6, 2022.

ADDRESSES: The complete Susan Harwood Training Grant Program Funding Opportunity Announcement and all information needed to apply are available at the *Grants.gov* website, *www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the funding opportunity announcement should be emailed to *HarwoodGrants@dol.gov* or directed to OSHA via telephone at 847–725–7805. Personnel will not be available to answer questions after 5:00 p.m., ET. To obtain further information on the Susan Harwood Training Grant Program, visit the OSHA website at *www.osha.gov/harwoodgrants.* Questions regarding *Grants.gov* should be emailed to *Support@grants.gov* or directed to Applicant Support toll free at 1–800–518–4726. Applicant Support is available 24 hours a day, 7 days a week except Federal holidays.

SUPPLEMENTARY INFORMATION:

Finding Opportunity Number: SHTG–FY–22–05 (Workplace Safety and Health Training on Infectious Diseases, Including COVID–19).

Catalog of Federal Domestic Assistance Number: 17.502.

Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is Section 21 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670), American Rescue Plan Act of 2021, and Secretary of Labor's Order No. 8–2020 (85 FR 58393, September 18, 2020).

Signed at Washington, DC, on February 28, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–04710 Filed 3–4–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0861]

OSHA Strategic Partnership Program (OSPP) for Worker Safety and Health; Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the OSHA Strategic Partnership Program (OSPP) for Worker Safety and Health.

DATES: Comments must be submitted (postmarked, sent, or received) by May 6, 2022.

ADDRESSES:

Electronically: You may submit comments, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted

material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (OSHA–2011–0861). OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates. For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with a minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining said information (29 U.S.C. 657).

The OSPP allows OSHA to enter into an extended, voluntary, cooperative relationship with groups of employers, employees, and representatives (sometimes including other stakeholders, and sometimes involving only one employer) to encourage, assist, and recognize their efforts to eliminate serious hazards and to achieve a high level of worker safety and health that goes beyond what historically has been achieved from traditional enforcement methods. Each OSHA Strategic Partnership (OSP) determines what information will be needed, determining the best collection method, and clarifying how the information will be used. At a minimum, each OSP must identify baseline injury and illness data corresponding to all summary line items on the OSHA 300 logs and must track changes at either the worksite level or participant-aggregate level. An OSP may also include other measures of success, such as training activity, self-inspections, and/or workers' compensation data. In this regard, the information collection requirements for the OSPP are used by the agency to gauge the effectiveness of programs, identify needed improvements, and ensure that resources are being used effectively and appropriately.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- the accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- the quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

The agency is requesting an adjustment increase of 4,466 burden hours of the previous approval from 14,014 to 18,480 hours. The increase in burden is a result of increase in the number of employers and participants.

Type of Review: Extension of a currently approved collection.

Title: OSHA Strategic Partnership Program (OSPP) for Worker Safety and Health.

OMB Control Number: 1218–0244.

Affected Public: Businesses or other for-profits.

Total Number of Responses: 3,040.

Frequency of Responses: On occasion.

Average Time: Various.

Estimated Total Burden Hours: 18,480.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. *Please note:* While OSHA's Docket Office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. All comments, attachments, and other material must identify the agency name and the OSHA docket number for this ICR (Docket No. OSHA–2011–0861). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information, such as their social security number and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the website and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the

preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on February 25, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–04709 Filed 3–4–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0025]

UL LLC: Grant of Expansion of Recognition and Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for UL LLC as a Nationally Recognized Testing Laboratory (NRTL). Additionally, OSHA announces the final decision to add two test standards to the NRTL Program's list of appropriate test standards.

DATES: The expansion of the scope of recognition becomes effective on March 7, 2022.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of UL LLC (UL) as a NRTL. UL's expansion covers the addition of eleven test standards to the NRTL scope of recognition, two of which OSHA will add to the NRTL Program's List of Appropriate Test Standards.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including UL, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

UL submitted an application, dated May 23, 2019, to expand their recognition as a NRTL to include twelve additional test standards (OSHA–2009–0025–0038). This application was amended to remove one standard from the original request (OSHA–2009–0025–0039). The expansion would add eleven additional test standards to UL's NRTL scope of recognition. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing UL's expansion application in the **Federal Register** on January 26, 2022 (87 FR 4053). The agency requested comments by February 10, 2022, but it received no comments in response to this notice. OSHA is now proceeding with this final notice to grant expansion of UL's scope of recognition and modification to the NRTL Program's List of Appropriate Test Standards.

To obtain or review copies of all public documents pertaining to UL's application, go to *http://www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. Docket No. OSHA–2009–0025 contains all materials in the record concerning UL's recognition. *Please note:* Due to the COVID–19 pandemic, the Docket Office is closed to the public at this time but can be contacted at (202) 693–2350 (TTY ((877) 889–5627).

II. Final Decision and Order

OSHA staff examined UL's expansion application, its capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that UL meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitations and conditions listed in this notice. OSHA, therefore, is proceeding with this final notice to grant UL's scope of recognition. OSHA limits the expansion of UL's recognition to testing and certification of products for demonstration of conformance to the test standards listed below in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN UL'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 122701 *	Requirements for Process Sealing Between Electrical Systems and Flammable or Combustible Process Fluids.
UL 248–19 *	Standard for Low-Voltage Fuses—Part 19: Photovoltaic Fuses.
UL 8139	Electrical Systems of Electronic Cigarettes and Vaping Devices.
UL 61730–1	Standard for Photovoltaic (PV) Module Safety Qualification—Part 1: Requirements for Construction.
UL 61730–2	Photovoltaic (PV) Module Safety Qualification—Part 2: Requirements for Testing.
ISA 60079–25	Standard for Explosive Atmospheres—Part 25: Intrinsically Safe Electrical Systems.
UL 60079–25	Standard for Explosive Atmospheres—Part 25: Intrinsically Safe Electrical Systems.
UL 60079–26	Explosive Atmospheres—Part 26: Equipment for Use in Class I, Zone 0 Hazardous (Classified) Locations.
UL 60079–30–1	Standard for Explosive Atmospheres—Part 30–1: Electrical Resistance Trace Heating-General and Testing Requirements.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN UL'S NRTL SCOPE OF RECOGNITION—Continued

Test standard	Test standard title
UL 121201	Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations.
UL 60079–28	Standard for Explosive Atmospheres—Part 28: Protection of Equipment and Transmission Systems Using Optical Radiation.

* Represents the standards that OSHA is adding to the NRTL Program's List of Appropriate Test Standards

In this notice, OSHA also announces the final decision to add two new test standards to the NRTL Program's List of Appropriate Test Standards. Table 2 below lists the standards that are new to the NRTL Program. OSHA has determined that these test standards are appropriate test standards and will add them to the NRTL Program's List of Appropriate Test Standards.

TABLE 2—STANDARDS OSHA IS ADDING TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 122701	Requirements for Process Sealing Between Electrical Systems and Flammable or Combustible Process Fluids.
UL 248–19	Standard for Low-Voltage Fuses—Part 19: Photovoltaic Fuses.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standard listed above as an American National Standard. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, UL must abide by the following conditions of the recognition:

1. UL must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. UL must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. UL must continue to meet the requirements for recognition, including all previously published conditions on UL's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of UL, subject to the limitations and conditions specified above. OSHA also adds two standards to the NRTL Program's List of Appropriate Test Standards.

III. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, September 18, 2020) and 29 CFR 1910.7.

Signed at Washington, DC, on February 28, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–04711 Filed 3–4–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0186]

Inorganic Arsenic Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Inorganic Arsenic Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by May 6, 2022.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection

through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2011–0186) for the Information Collection Request (ICR). OSHA will place all comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birthdates. For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSHA Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act, or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The information collection requirements in the Inorganic Arsenic Standard provide protection for workers from the adverse health effects associated with exposure to inorganic arsenic. The Inorganic Arsenic Standard requires employers to: Monitor workers' exposure to inorganic arsenic, and notify workers of exposure-monitoring results; establish, implement, and update at least annually a written compliance program to reduce exposures to or below the permissible exposure limit by means of engineering and work practice controls; notify anyone who cleans protective clothing or equipment of the potentially harmful effects of inorganic arsenic exposure; develop, update, and maintain a housekeeping and maintenance plan; monitor worker health by providing medical surveillance; post warning signs, and apply labels to shipping and storage containers of inorganic arsenic; develop and maintain worker exposure monitoring and medical records; and provide workers with information about their exposures and the health effects of exposure to inorganic arsenic.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply. For example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Inorganic Arsenic Standard (29 CFR 1910.1018). The agency is proposing an adjustment increase of 32 burden hours, from 10,389 hours to 10,430 hours. The increase in burden is due to an error in the calculations and a change in rounding of the burden hours and cost. The numbers are not rounded until the totals. The number of workers being monitored and receiving medical exams remains the same. The total capital cost remains the same $1,120,896.

Type of Review: Extension of a currently approved collection.

Title: Inorganic Arsenic Standard (29 CFR 1910.1018).

OMB Number: 1218–0104.

Affected Public: Business or other for-profits.

Number of Respondents: 889.

Frequency of Response: On occasion; quarterly; semi-annually; annually.

Total Responses: 17,451.

Average Time per response: Varies.

Estimated Total Burden Hours: 10,430.

Estimated Cost (Operation and Maintenance): $1,120,896.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. *Please note:* While OSHA's Docket Office is continuing to accept and process submissions by hand, express mail, messenger, and courier service, all comments, attachments, and other material must identify the agency name and the OSHA docket number for this ICR (Docket No. OSHA–2011–0186). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and docket number so the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments. Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority

for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on February 25, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–04708 Filed 3–4–22; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Engineering #1170.

Date and Time: April 6, 2022: 11:00 a.m. to 6:00 p.m.; April 7, 2022: 10:30 a.m. to 3:15 p.m.

Place: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314 | Virtual.

Type of Meeting: Open.

Contact Person: Evette Rollins, *erollins@nsf.gov;* 703–292–8300; NSF 2415 Eisenhower Avenue, Alexandria, VA 22314.

The forthcoming virtual meeting information and an updated agenda will be posted at *https://www.nsf.gov/eng/advisory.jsp.*

Purpose of Meeting: To provide advice, recommendations and counsel on major goals and policies pertaining to engineering programs and activities.

Agenda

Wednesday, April 6, 2022

- Directorate for Engineering Report
- NSF Budget Update
- NSF Strategic Plan
- ENG Strategic Planning
- Reports from Advisory Committee Liaisons

Thursday, April 7, 2022

- Diversity in Engineering: Current Data Trends
- Panel and Discussion on Diversity in Engineering
- Preparation for Discussion with the Director's Office
- Prospective from the Director's Office
- Strategic Recommendations for ENG

Dated: March 1, 2022.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2022–04700 Filed 3–4–22; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Committee Management Renewals

The NSF management officials having responsibility for three advisory committees listed below have determined that renewing these groups for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Committees:

Advisory Committee for Environmental Research and Education, #9487

Proposal Review Panel for Industrial Innovations and Partnerships, #28164

Proposal Review Panel for Emerging Frontiers and Multidisciplinary Activities #34558

Effective date for renewal is March 2, 2022. For more information, please contact Crystal Robinson, NSF, at (703) 292–8687.

Dated: March 2, 2022.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2022–04701 Filed 3–4–22; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Application of Emergency Provision Under the Antarctic Conservation Act

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The Office of Polar Programs, National Science Foundation, is giving notice that an emergency relating to considerations of human health and safety caused hazardous waste to be stored at McMurdo Station for more than 15 months.

Hazardous waste in the form of batteries, biomedical waste, laboratory chemical waste, gas cylinders, hazardous debris, glycol, PCBs, petroleum-based compounds, solvents/paints/adhesives, radioactive material, and fuel contaminated soils and materials, with an aggregate of approximately 22,140 lbs. net weight, was, consistent with waste management best practices, segregated, packaged, and stored in a secured location for removal from the station.

FOR FURTHER INFORMATION CONTACT: Dr. Polly A. Penhale, Senior Advisor, Environment at 703–292–7420.

SUPPLEMENTARY INFORMATION: The waste was to be removed in February 2022, at the end of the 2021–2022 season. In January 2022, the annual cargo vessel sustained electrical damage on its voyage to Antarctica, and had to return to port in California for repairs. Due to this delay, the ship arrived to McMurdo Station later than anticipated, and the ice pier at McMurdo cracked during the off-load and on-load of material. This crack posed a serious safety concern for human life and the vessel, making further waste removal operations impossible. The removal of the remaining hazardous waste is a priority for removal during the January–February 2023 time period.

(Authority: 45 CFR 671.17)

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2022–04779 Filed 3–4–22; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–7020; NRC–2022–0053]

Sensor Concepts and Applications Incorporated

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal application; opportunity to request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff has received an application from Sensor Concepts and Applications, Incorporated (SCA or the licensee) to renew Special Nuclear Materials (SNM) License No. SNM–2017. The renewed license would authorize the applicant to continue to use SNM in greater than critical mass quantities for research and development of radiation detection instrumentation at its location in Glen Arm, Maryland as well as other locations selected by the United States Department of Defense. This license renewal, if approved, would authorize SCA to continue licensed activities for 10 years beyond its current license.

DATES: A request for a hearing or petition for leave to intervene must be filed by May 6, 2022.

ADDRESSES: Please refer to Docket ID NRC–2022–0053 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0053. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The publicly available part of the SCA Application for Renewal of SNM–2017 is available in ADAMS under Accession No. ML22027A596.

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard A. Jervey, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6201, email: *Richard.Jervey@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC has received, by letter dated November 24, 2021 (ADAMS Accession No. ML22027A596), an application from SCA to renew SNM–2017, which authorizes SCA to use SNM for research and development in their support of the Department of Defense, Defense Threat Reduction Agency and other United States Government Agencies. These activities include Concept Demonstrations, Test and Evaluation, Characterization Evaluations and operator training activities.

The license renewal would allow SCA to continue licensed activities for 10 years beyond its current license. Paragraph 70.38 (a) of title 10 of the *Code of Federal Regulations* (10 CFR), states that a specific license expires at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal under 10 CFR 70.33 not less than 30 days before the expiration date stated in the existing license. The term of SCA's current license expired on December 27, 2021; however, the application for renewal was made at least 30 days prior to the expiration, and thus, the current license is still in effect. The licensee continues to be authorized to use SNM under 10 CFR part 70.

An NRC administrative completeness review of the revised application dated February 1, 2022 (ADAMS Accession No. ML22021B672), found the application acceptable for a technical review. During the technical review, the NRC will be reviewing the application in areas that include, but are not limited to, radiation safety, nuclear criticality safety, chemical safety, fire safety, security, environmental protection, decommissioning, decommissioning financial assurance, and material control/accountability. Prior to approving the request to renew SNM–2017, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations. The NRC's findings will be documented in a safety evaluation report.

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the renewal of the special nuclear materials license. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed within 60 days, the presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h), no later than 60 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (*https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053*) and on the NRC *https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html.*

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the Guidance for Electronic Submissions to the NRC (ADAMS Accession No. ML13031A056) and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system timestamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

Dated: March 1, 2022.

For the Nuclear Regulatory Commission.

Jacob I. Zimmerman,

Chief, Fuel Facility Licensing Branch, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2022–04688 Filed 3–4–22; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2022–43 and CP2022–49; MC2022–44 and CP2022–50]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filings, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 9, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2022–43 and CP2022–49; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 130 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 1, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca Upperman; *Comments Due:* March 9, 2022.

2. *Docket No(s).:* MC2022–44 and CP2022–50; *Filing Title:* USPS Request to Add Priority Mail Contract 736 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 1, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* March 9, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–04748 Filed 3–4–22; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 7, 2022.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 1, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 736 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–44, CP2022–50.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2022–04774 Filed 3–4–22; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 7, 2022.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 1, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 130 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–43, CP2022–49.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2022–04771 Filed 3–4–22; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 7, 2022.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on February 28, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 215 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–42, CP2022–48.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2022–04773 Filed 3–4–22; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on Wednesday, March 9, 2022 at 10 a.m.

PLACE: The meeting will be webcast on the Commission's website at *www.sec.gov.*

STATUS: The meeting will begin at 10 a.m. (ET) and will be open to the public via webcast on the Commission's website at *www.sec.gov.*

MATTERS TO BE CONSIDERED: 1. The Commission will consider whether to propose amendments regarding cybersecurity risk management, strategy, governance, and incident disclosure.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: March 9, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–04830 Filed 3–3–22; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94319; File No. SR–NYSEArca–2022–10]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Proprietary Market Data Fee Schedule

February 28, 2022.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

notice is hereby given that, on February 24, 2022, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Proprietary Market Data Fee Schedule (''Fee Schedule'') to introduce a data product to be known as the NYSE Options Open-Close End of Day Volume Summary (''End of Day Volume Summary'') that would be available for purchase by any market participant, *i.e.,* members [4] and non-members, on an ad-hoc basis and to adopt fees for such product. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to introduce a data product to be known as the End of Day Volume Summary that would be available for purchase by market participants on an ad-hoc basis and to adopt fees for such product.[5]

More specifically, the Exchange proposes to offer an ad-hoc historic monthly End of Day Volume Summary market data product that will provide a volume summary of trading activity on the Exchange at the option level by origin (Customer, Professional Customer, Firm, Broker-Dealer, and Market Maker [6]), side of the market (buy or sell), contract volume, and transaction type (opening or closing). The Customer, Professional Customer, Firm, Broker-Dealer, and Market Maker volume will be further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The ad-hoc historic monthly End of Day Volume Summary is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Exchange proposes to offer data that would go back to December 2018 and would contain all series in an underlying security if it has volume.[7]

The Exchange anticipates a wide variety of market participants to purchase the ad-hoc historic monthly End of Day Volume Summary, including, but not limited to, individual customers, buy-side investors, investment banks and academic institutions. For example, academic institutions may utilize the proposed product to promote research and studies of the options industry to the benefit of all market participants. The Exchange believes the proposed product may also provide helpful trading information regarding investor sentiment and may be used to create and test trading models and analytical strategies. The ad-hoc historic monthly End of Day Volume Summary is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential customers may purchase it on an ad-hoc basis only if they voluntarily choose to do so. The Exchange notes that other exchanges offer a similar product.[8] As such, the ad-hoc historic monthly End of Day Volume Summary is subject to direct competition from similar end of day options trading summaries offered by other exchanges. All of these exchanges offer essentially the same end of day options trading summary information, and generally differ solely in the amount of history available for purchase.[9]

The Exchange proposes to provide in its Fee Schedule that market participants may purchase the ad-hoc historic monthly End of Day Volume Summary for a specified month (historical file). The Exchange proposes to assess a fee of $600 per request per month for an ad-hoc request of historical End of Day Volume Summary covering all Exchange-listed securities. An ad-hoc request can be for any number of months beginning with December 2018 for which the data is available.[10] The proposed fee for ad-hoc requests for the historic monthly End of Day Volume Summary will apply to all market participants. The Exchange notes that other exchanges provide a similar data product that may be purchased on an ad-hoc basis and is comparably priced.[11]

NYSE Options Open-Close Volume Summary is subject to significant competitive forces that constrain its

[4] Members of the Exchange are OTP Firms, OTP Holders and ETP Holders.

[5] The Exchange previously adopted a subscription-based market data product known as the NYSE Options Open-Close Volume Summary that market participants can purchase on a subscription basis. *See* Securities Exchange Act Release No. 93132 (September 27, 2021), 86 FR 54499 (October 1, 2021) (SR–NYSEArca–2021–82). The purpose of this filing is to introduce a historic monthly report of the NYSE Options Open-Close Volume Summary that would be available for purchase by any market participant on an ad-hoc basis.

[6] The terms Customer, Professional Customer, Firm and Market Maker are defined in Rule 1.1.

[7] The specifications for the ad-hoc historic monthly End of Day Volume Summary can be found at *https://www.nyse.com/market-data/historical/open-close-volume-summary.*

[8] *See* Securities Exchange Act Release Nos. 87463 (November 5, 2019), 84 FR 61129 (November 12, 2019) (SR–C2–2019–023) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Introduce a New Data Product To Be Known as Open-Close Data and To Adopt Fees for Such Product); 55062 (January 8, 2007), 72 FR 2048 (January 17, 2007) (SR–CBOE–2006–88) (Order Granting Approval to Proposed Rule Change To Codify a Fee Schedule for the Sale of Open and Close Volume Data on CBOE Listed Options by Market Data Express, LLC); and 56957 (December 13, 2007), 72 FR 71988 (December 19, 2007) (SR–ISE–2007–115) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Historical ISE Open/Close Trade Profile Fees). The ad-hoc historic monthly End of Day Volume Summary report contains the same information that is provided in the monthly subscription-based market data product known as the NYSE Options Open-Close Volume Summary. *See* note 5, *supra.*

[9] For example, Nasdaq PHLX LLC offers history for their end of day data starting in January 2009 while NYSE Options Open-Close Volume Summary history is only offered starting in December 2018. *See https://www.nasdaqtrader.com/micro.aspx?id=photo.*

[10] For example, a customer that requests historical End of Day Volume Summary for the months of June 2021 and July 2021, would be assessed a total of $1,200. The Exchange notes that it may make historical data prior to December 2018 available in the future and that such historical data would be available to all members and non-members.

[11] *See e.g.,* Cboe LiveVol, LLC Market Data Fees available at *https://www.cboe.com/us/options/membership/fee_schedule/ctwo/.* Cboe C2 Options (''C2'') offers Open-Close Data: End-of-Day Ad-hoc Request (historical data) and assesses a fee of $400 per request per month. Cboe EDGX Exchange, Inc. (''EDGX'') similarly offers Open-Close Data: End-of-Day Ad-hoc Request (historical data) and assesses a fee of $400 per request per month. *See https://www.cboe.com/us/options/membership/fee_schedule/edgx/.* Nasdaq ISE, LLC (''ISE'') offers Nasdaq ISE Open/Close Trade Profile End of Day Ad-Hoc Request (historical data) and assesses a fee of $600 per request per month. *See* Sec. 10, Market Data, at *https://listingcenter.nasdaq.com/rulebook/ise/rules/ise-options-7.*

pricing. As described above, the Exchange's data product competes head-to-head with numerous products currently available in the marketplace. These products each serve as reasonable substitutes for one another as they are each designed to provide data on options market activity which can be used to infer longer-term trends. The information provided by one exchange is generally similar to that provided by other exchanges because order flow can move from one exchange to another, and market sentiment trends that appear on one exchange are likely to be similar to the sentiment trends on other exchanges. The key differentiator in the quality of the data depends on the volume of transactions on a given exchange. The greater the volume of transactions, the greater the value of the data. The proposed fee for ad-hoc purchases of historic monthly End of Day Volume Summary is therefore constrained by the competition among exchanges for similar options trading summary products.

The Exchange intends to offer the historic monthly End of Day Volume Summary on an ad-hoc basis and charge the proposed fees on March 1, 2022.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposal to adopt fees for End of Day Volume Summary is consistent with Section 6(b) of the Act[14] in general, and furthers the objectives of Section 6(b)(4) of the Act[15] in particular, in that it is an equitable allocation of dues, fees and other charges among its members and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data.

The Exchange believes that the proposed ad-hoc historic monthly End of Day Volume Summary market data product would further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The proposed rule change would benefit investors by providing access to historic data, which as noted above, may promote better informed trading, as well as research and studies of the options industry. Particularly, information regarding opening and closing activity across different option series may indicate investor sentiment, which can be helpful research and/or trading information. Customers of the historic data product may be able to enhance their ability to analyze options trade and volume data, and create and test trading models and analytical strategies. The Exchange believes ad-hoc historic monthly End of Day Volume Summary would provide a valuable tool that customers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading. Moreover, other exchanges offer a similar data product.[16]

The Exchange operates in a highly competitive market. Indeed, there are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[17] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in November 2021, the Exchange had less than 13% market share of executed volume of multiply-listed equity and ETF options trades.[18]

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[19]

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC* upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system ''evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed'' and that the SEC wield its regulatory power ''in those situations where competition may not be sufficient,'' such as in the creation of a ''consolidated transactional reporting system.''[20]

The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' ''[21]

More recently, the Commission confirmed that it applies a ''market-based'' test in its assessment of market data fees, and that under that test:

> The Commission considers whether the exchange was subject to significant competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find that the terms of the rule violate the Act or the rules thereunder.[22]

Making similar historic data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supra-competitive fees. In the event that a market participant views one exchange's historic data product as

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

[16] *See* note 8, *supra.*

[17] The Options Clearing Corporation (''OCC'') publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, *available here: https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[18] Based on OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.,* the Exchange's market share in multiply-listed equity and ETF options was 10.35% for the month of November 2020 and 12.99% for the month of November 2021.

[19] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[20] *NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. Cir. 2010) (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323).

[21] *Id.* at 535.

[22] *See* Securities Exchange Act Release No. 34–90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR–NYSENAT–2020–05) (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (ArcaBook Approval Order).

more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of the ad-hoc historic monthly End of Day Volume Summary data product.

The Exchange believes its proposal to provide the ad-hoc historic monthly End of Day Volume Summary is reasonable as the proposed fees are comparable to the fees assessed by other exchanges [23] that provide similar historic data products.[24] Indeed, proposing fees that are excessively higher than established fees for similar historic data products would simply serve to reduce demand for the Exchange's historic data product, which as noted, is entirely optional. Like the ad-hoc historic monthly End of Day Volume Summary, other exchanges offer similar historic data products that each provide insight into trading on those markets and may likewise aid in assessing investor sentiment. Although each of these similar historic data products provide only proprietary trade data and not trade data from other exchanges, it is possible investors are still able to gauge overall investor sentiment across different option series based on open and closing interest on any one exchange. Similarly, market participants may be able to analyze option trade and volume data, and create and test trading models and analytical strategies using only the ad-hoc historic monthly End of Day Volume Summary data relating to trading activity on one or more of the other markets that provide similar historic data products. As such, if a market participant views another exchange's data as more attractive than the Exchange's offering, then such market participant can merely choose not to purchase the Exchange's historic data product and instead purchase another exchange's historic product, which offer similar data points, albeit based on that other market's trading activity.

The Exchange also believes the proposed fees are reasonable as they would support the introduction of a historic market data product that is designed to aid investors by providing insight into trading on the Exchange. In turn, this data would assist market participants in gauging investor sentiment and trading activity, resulting in potentially better-informed trading decisions. As noted above, customers may also use such data to create and test trading models and analytical strategies.

Selling historic market data, such as the ad-hoc historic monthly End of Day Volume Summary, is also a means by which exchanges compete to attract business. To the extent that the Exchange is successful in attracting customers to the Exchange's historic data product, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposed fees to be unfair or inequitable, customers can diminish or discontinue their use of the historic data and/or avail themselves of similar products offered by other exchanges.[25] The Exchange therefore believes that the proposed fees reflect the competitive environment and would be properly and equally assessed to all customers. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply equally to all customers who choose to purchase such data. The proposed fees would not differentiate between customers that purchase the ad-hoc historic monthly End of Day Volume Summary, and are set at a modest level that would allow any interested market participant to purchase such data based on their business needs. Nothing in this proposal treats any category of market participant any differently from any other category of market participant. The ad-hoc historic monthly End of Day Volume Summary is available to all market participants, *i.e.,* members and non-members, and all market participants would receive the same information in the data feed.

As noted above, the Exchange anticipates a wide variety of market participants to purchase the ad-hoc historic monthly End of Day Volume Summary data product, including but not limited to individual customers, buy-side investors, investment banks and academic institutions. As such, the Exchange anticipates that the historic data product may be used not just for commercial or monetizing purposes, but also for educational use and research. The Exchange reiterates that the decision as to whether or not to purchase the ad-hoc historic monthly End of Day Volume Summary is entirely optional for all potential customers. Indeed, no market participant is required to purchase the historic data product, and the Exchange is not required to make the historic data product available to market participants. Rather, the Exchange is voluntarily making the historic data product available, as requested by customers, and market participants may choose to receive (and pay for) this data based on their own business needs. Potential customers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

In sum, the fierce competition for order flow constrains any exchange from pricing its historic market data at a supra-competitive price, and constrains the Exchange here in setting its fees for the ad-hoc historic monthly End of Day Volume Summary data product.

The proposed fees are therefore reasonable because in setting them, the Exchange is constrained by the availability of numerous substitute venues offering historic market data products and trading.[26] Such substitutes need not be identical, but only substantially similar to the product at hand. More specifically, in setting fees for the ad-hoc historic monthly End of Day Volume Summary data product, the Exchange is constrained by the fact that, if its pricing is unattractive to customers, customers have their pick of an increasing number of alternative venues to use instead of the Exchange.[27] Because of the availability of substitutes, an exchange that overprices its historic market data products stands a high risk that customers may substitute another source of market data information for its own. Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing. The existence of numerous alternatives to the Exchange ensures that the Exchange cannot set unreasonable fees for historic market data without suffering the negative effects of that decision in the fiercely competitive market in which it operates.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange also does not believe the proposed fees would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own comparable historic data product and adopt fees to better compete with the Exchange's offering. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to sell a historic data product similar to those offered by other

[23] *See,* note 11, *supra.*

[24] *See,* note 8, *supra.*

[25] *See,* note 11, *supra.*

[26] *See,* note 8, *supra.*

[27] *See,* note 11, *supra.*

competitor options exchanges.[28] The Exchange is offering the ad-hoc historic monthly End of Day Volume Summary in order to keep pace with changes in the industry and evolving customer needs, and believes the data product will contribute to robust competition among national securities exchanges.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price the ad-hoc historic monthly End of Day Volume Summary is constrained by competition among exchanges that offer similar historic data products to their customers. As discussed above, there are currently a number of similar products available to market participants and investors. A number of U.S. options exchanges offer a historic market data product that is substantially similar to the Exchange's offering, which the Exchange must consider in its pricing discipline in order to compete effectively. For example, proposing fees that are excessively higher than established fees for similar historic data products would simply serve to reduce demand for the Exchange's historic data product, which as discussed, market participants are under no obligation to utilize or purchase. In this competitive environment, potential purchasers are free to choose which, if any, similar historic product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fees would apply uniformly to any customer, in that the Exchange would not differentiate between customers that purchase the ad-hoc historic monthly End of Day Volume Summary and all customers would receive the same information in the data feed. The Exchange believes the proposed fees are set at a modest level that would allow interested customers to purchase such data based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[28] *See,* note 8, *supra.*

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [29] and Rule 19b–4(f)(6) [30] thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [31] and Rule 19b–4(f)(6) [32] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [33] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[34] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to allow the Exchange to implement the proposed rule change and corresponding fee on March 1, 2022, and thereby allow the Exchange to compete with exchanges that currently offer similar historic market data products. The Commission believes that, as described above, the Exchange's proposal does not raise any new or novel issues. Therefore, the Commission believes that waving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed rule change to be operative upon filing.[35]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[29] 15 U.S.C. 78(b)(3)(A).

[30] 17 CFR 240.19b–4(f)(6).

[31] 15 U.S.C. 78s(b)(3)(A).

[32] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[33] 17 CFR 240.19b–4(f)(6).

[34] 17 CFR 240.19b–4(f)(6).

[35] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2022–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2022–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2022–10 and

should be submitted on or before March 28, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04560 Filed 3–4–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting; Cancellation

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 87 FR 11493, March 1, 2022.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday March 3, 2022 at 2 p.m.

CHANGES IN THE MEETING: The Closed Meeting scheduled for Thursday, March 3, 2022 at 2 p.m., has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: March 2, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–04823 Filed 3–3–22; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 12 p.m. on Wednesday, March 9, 2022.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: March 3, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–04923 Filed 3–3–22; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94334; File No. SR–NYSEAMER–2022–11]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend the NYSE American Options Proprietary Market Data Fee Schedule

March 1, 2022.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on February 23, 2022, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE American Options Proprietary Market Data Fee Schedule (''Fee Schedule'') to adopt fees for the NYSE Options Open-Close Volume Summary market data product, effective March 1, 2022. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to adopt fees for the NYSE Options Open-Close Volume Summary,[4] which will be available for purchase by any market participant, *i.e.,* members[5] and non-members. The Exchange proposes to implement fees for the NYSE Options Open-Close Volume Summary market data product on March 1, 2022. The proposed fees would be applied equally to all market participants and all market participants would receive the same information in the data feed.

Background

By way of background, pursuant to the Product Filing, the Exchange adopted two versions of the NYSE Options Open-Close Volume Summary: An End of Day Volume Summary market data product and an Intra-Day

[36] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 93803 (December 16, 2021), 86 FR 72647 (December 22, 2021) (SR–NYSEAmerican–2021–46) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a New Historical Market Data Product To Be Known as the NYSE Options Open-Close Volume Summary) (''Product Filing'').

[5] Members of the Exchange are member organizations, members, ETP Holders and ATP Holders.

Volume Summary market data product. The Exchange will initially offer the End of Day Volume Summary market data product and the purpose of this filing is to adopt fees for the End of Day Volume Summary market data product.[6] The End of Day Volume Summary provides a volume summary of trading activity on the Exchange at the option level by origin (Customer, Professional Customer, Firm, Broker-Dealer, and Market Maker [7]), side of the market (buy or sell), contract volume, and transaction type (opening or closing). The Customer, Professional Customer, Firm, Broker-Dealer, and Market Maker volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The NYSE Options Open-Close Volume Summary is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed.

The Exchange anticipates a wide variety of market participants to purchase the End of Day Volume Summary data product, including, but not limited to, individual customers, buy-side investors, and investment banks. The Exchange believes the End of Day Volume Summary would provide subscribers data that should enhance their ability to analyze options trade and volume data, and to create and test trading models and analytical strategies. The Exchange believes the End of Day Volume Summary will be a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular options series. The End of Day Volume Summary is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange notes that other exchanges offer a similar product.[8]

The End of Day Volume Summary is subject to direct competition from similar end of day options trading summaries offered by other options exchanges.[9] All of these exchanges offer essentially the same end of day options trading summary information. The options trading summary files offered by the Exchange's competitors are substitutes, not complements. The End of Day Volume Summary provides data on options market activity which can be used to infer longer-term trends. The information provided by one exchange is generally similar to that provided by other exchanges because order flow can move from one exchange to another, and market sentiment trends that appear on one exchange are likely to be similar to the sentiment trends on other exchanges. The key differentiator in the quality of the data depends on the volume of transactions on a given exchange. The greater the volume of transactions, the greater the value of the data.

Proposed Rule Change

The Exchange proposes to adopt subscription fees for the purchase of the End of Day Volume Summary on a monthly basis. The Exchange proposes to assess a fee of $750 per month for subscribing to the End of Day Volume Summary. The Exchange also proposes that for mid-month subscriptions, new subscribers will be charged for the full calendar month for which they subscribe and will be provided NYSE Options Open-Close Volume Summary data for each trading day of the calendar month in which they subscribed. The proposed monthly fees will apply to all market participants. The Exchange notes that other exchanges provide similar data products that may be purchased on a monthly basis and are comparably priced.[10]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposal to adopt fees for the End of Day Volume Summary market data product is consistent with Section 6(b) of the Act [13] in general, and furthers the objectives of Section 6(b)(4) of the Act [14] in particular, in that it is an equitable allocation of dues, fees and other charges among its members and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. Particularly, the End of Day Volume Summary further broadens the availability of U.S. options market data to investors consistent with the principles of Regulation NMS.

[6] The Exchange intends to offer the Intra-Day Volume Summary market data product when the NYSE American options market transitions to the Pillar trading platform, anticipated for Q4 2022. The Exchange will submit a separate proposed rule change to establish fees for the Intra-Day Volume Summary market data product prior to its launch.

[7] The terms Customer, Professional Customer, Firm and Market Maker are defined in Rule 900.2NY. Definitions.

[8] *See* Securities Exchange Act Release Nos. 89497 (August 6, 2020), 85 FR 48747 (August 12, 2020) (SR–CboeBZX–2020–059); 89498 (August 6, 2020), 85 FR 48735 (August 12, 2020) (SR–Cboe–EDGX–2020–36);85817 (May 9, 2019), 84 FR 21863 (May 15, 2019) (SR–CBOE–2019–026); 89496 (August 6, 2020), 85 FR 48743 (August 12, 2020) (SR–C2–2020–010); 89586 (August 17, 2020), 85 FR 51833 (August 21, 2020) (SR–C2–2020–012); 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR–Phlx–2010–121); 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR–NASDAQ–2011–144); 61317 (January 8, 2010), 75 FR 2915 (January 19, 2010) (SR–ISE–2009–103); 81632 (September 15, 2017), 82 FR 44235 (September 21, 2017) (SR–GEMX–2017–42); 91963 (May 21, 2021), 86 FR 28662 (May 27, 2021) (SR–EMERALD–2021–18); 91964 (May 21, 2012), 86 FR 28667 (May 27, 2021) (SR–PEARL–2021–24); and 91965 (May 21, 2021), 86 FR 28665 (May 27, 2021) (SR–MIAX–2021–18).

[9] *See* note 8, *supra.*

[10] *See* Price List—U.S. Derivatives Data for Nasdaq PHLX, LLC (''PHLX''), The Nasdaq Stock Market, LLC (''Nasdaq''), Nasdaq ISE, LLC (''ISE''), and Nasdaq GEMX, LLC (''GEMX''), *available at http://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#web.* Particularly, PHLX offers ''Nasdaq PHLX Options Trade Outline (PHOTO)'' and assesses $750 per month for an end of day subscription; Nasdaq offers the ''Nasdaq Options Trade Outline (NOTO)'' and assesses $500 per month for an end of day subscription; ISE offers the ''Nasdaq ISE Open/Close Trade Profile'' and assesses $750 per month for an end of day subscription; and GEMX offers the ''Nasdaq GEMX Open/Close Trade Profile'' and assesses $500 per month for an end of day subscription. Cboe EDGX Exchange, Inc. (''EDGX'') assesses $500 per month for an end of day subscription and Cboe BZX Exchange, Inc. (''BZX'') assesses $500 per month for an end of day subscription. *See* EDGX fee schedule *available at http://markets.cboe.com/us/options/membership/fee_schedule/edgx/;* and BZX fee schedule *available at http://markets.cboe.com/us/options/membership/fee_schedule/bzx/.* Miami International Securities Exchange, LLC (''MIAX''), MIAX Emerald, LLC (''Emerald'') and MIAX PEARL, LLC (''PEARL'') each assesses $600 per month for an end of day subscription. *See* MIAX Fee Schedule, *available at https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Options_Fee_Schedule_09282021.pdf;* Emerald Fee Schedule, *available at https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Emerald_Fee_Schedule_09282021.pdf;* and PEARL Fee Schedule, *available at https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Pearl_Options_Fee_Schedule_092821.pdf.*

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4).

Subscribers to the data may also be able to enhance their ability to analyze options trade and volume data and create and test trading models and analytical strategies. The Exchange believes the End of Day Volume Summary would provide a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading. Moreover, other exchanges offer a similar data product.[15]

The Exchange operates in a highly competitive market. Indeed, there are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[16] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in November 2021, the Exchange had less than 8% market share of executed volume of multiply-listed equity and ETF options trades.[17]

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [18]

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC* upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system ''evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed'' and that the SEC wield its regulatory power ''in those situations where competition may not be sufficient,'' such as in the creation of a ''consolidated transactional reporting system.'' [19]
>
> The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [20]
>
> More recently, the Commission confirmed that it applies a ''market-based'' test in its assessment of market data fees, and that under that test:
>
> The Commission considers whether the exchange was subject to significant competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find that the terms of the rule violate the Act or the rules thereunder.[21]

Making similar historic data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supra-competitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of the End of Day Volume Summary data product.

The Exchange believes the proposed fees are reasonable as they are comparable to the fees assessed by other exchanges that provide similar data products.[22] Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. Like the End of Day Volume Summary, other exchanges offer similar data products that each provide insight into trading on those markets and may likewise aid in assessing investor sentiment. Although each of these similar data products provide only proprietary trade data and not trade data from other exchanges, it is possible investors are still able to gauge overall investor sentiment across different option series based on open and closing interest on any one exchange. Similarly, market participants may be able to analyze option trade and volume data, and create and test trading models and analytical strategies using only the End of Day Volume Summary data relating to trading activity on one or more of the other markets that provide similar data products. As such, if a market participant views another exchange's data as more attractive than the Exchange's data product, then such market participant can merely choose not to purchase the Exchange's data product and instead purchase another exchange's product, which offer similar data points, albeit based on that other market's trading activity.

The Exchange also believes the proposed fees are reasonable as they would support the introduction of a new historic market data product that is designed to aid investors by providing insight into trading on the Exchange. Once the End of Day Volume Summary is made available, it would provide options market participants with valuable information about opening and closing transactions executed on the Exchange throughout the trading day, similar to other trade data products offered by competing options exchanges. In turn, this data would assist market participants in gauging investor sentiment and trading activity, resulting in potentially better-informed trading decisions. As noted above, subscribers may also use such data to create and test trading models and analytical strategies.

Selling historic market data is also a means by which exchanges compete to attract business. To the extent that the Exchange is successful in attracting subscribers to the Exchange's historic data product, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposed fees to be unfair or inequitable, subscribers can diminish or discontinue their use of the historic data and/or avail themselves of similar products offered by other exchanges.[23] The Exchange therefore believes that the proposed fees reflect the competitive environment and would be properly and equally assessed to all subscribers. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply

[15] *See* note 8, *supra.*

[16] The Options Clearing Corporation (''OCC'') publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, *available here: https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[17] Based on OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.,* the Exchange's market share in multiply-listed equity and ETF options was 9.09% for the month of November 2020 and 7.06% for the month of November 2021.

[18] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[19] *NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. Cir. 2010) (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323).

[20] *Id.* at 535.

[21] *See* Securities Exchange Act Release No. 34–90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR–NYSENAT–2020–05) (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (ArcaBook Approval Order).

[22] *See,* note 10, *supra.*

[23] *See,* note 8, *supra.*

equally to all subscribers who choose to purchase such data. Nothing in this proposal treats any category of market participant any differently from any other category of market participant. The End of Day Volume Summary is available to all market participants, *i.e.,* members and non-members, and all market participants would receive the same information in the data feed.

As noted above, the Exchange anticipates a wide variety of market participants to purchase the Exchange's data product, including but not limited to individual customers, buy-side investors and investment banks. The Exchange reiterates that the decision as to whether or not to purchase the End of Day Volume Summary is entirely optional for all potential subscribers. Indeed, no market participant is required to purchase the data product, and the Exchange is not required to make the data product available to market participants. Rather, the Exchange is voluntarily making the End of Day Volume Summary data product available, as requested by customers, and market participants may choose to receive (and pay for) this data based on their own business needs. Potential subscribers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

In sum, the fierce competition for order flow constrains any exchange from pricing its historic market data at a supra-competitive price, and constrains the Exchange here in setting its fees for the End of Day Volume Summary data product. As described above, the Exchange's data product competes head-to-head with numerous products currently available in the marketplace. These products each serve as reasonable substitutes for one another as they are each designed to provide data on options market activity which can be used to infer longer-term trends. The information provided by one exchange is generally similar to that provided by other exchanges because order flow can move from one exchange to another, and market sentiment trends that appear on one exchange are likely to be similar to the sentiment trends on other exchanges. The key differentiator in the quality of the data depends on the volume of transactions on a given exchange. The greater the volume of transactions, the greater the value of the historic data. The proposed fees are therefore reasonable because in setting them, the Exchange is constrained by the availability of numerous substitute venues offering historic market data products and trading. Such substitutes need not be identical, but only substantially similar to the product at hand.

More specifically, in setting fees for the End of Day Volume Summary, the Exchange is constrained by the fact that, if its pricing is unattractive to subscribers, subscribers have their pick of an increasing number of alternative venues to use instead of the Exchange. The existence of numerous alternatives to the Exchange ensures that the Exchange cannot set unreasonable fees for historic market data without suffering the negative effects of that decision in the fiercely competitive market in which it operates.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange also does not believe the proposed fees would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own comparable historic data product and adopt fees to better compete with the Exchange's offering. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to sell a data product similar to those offered by other competitor options exchanges.[24] The Exchange is offering the End of Day Volume Summary in order to keep pace with changes in the industry and evolving customer needs, and believes the data product will contribute to robust competition among national securities exchanges. At least eight other U.S. options exchanges offer a market data product that is substantially similar to the Exchange's offering. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price End of Day Volume Summary is constrained by competition among exchanges that offer similar data products to their customers. As discussed above, there are currently a number of similar products available to market participants and investors. At least eight other U.S. options exchanges offer a market data product that is substantially similar to the Exchange's offering, which the Exchange must consider in its pricing discipline in order to compete effectively.[25] For example, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as discussed, market participants are under no obligation to utilize or purchase. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fees would apply uniformly to any subscriber, in that the Exchange would not differentiate between subscribers that purchase the End of Day Volume Summary and all subscribers would receive the same information in the data feed. The Exchange believes the proposed fees are set at a modest level that would allow interested subscribers to purchase such data based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[26] of the Act and subparagraph (f)(2) of Rule 19b–4[27] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[28] of the Act to determine whether the proposed rule change should be approved or disapproved.

[24] *Id.*

[25] *See,* note 10, *supra.*

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(2).

[28] 15 U.S.C. 78s(b)(2)(B).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2022–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2022–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2022–11 and should be submitted on or before March 28, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04673 Filed 3–4–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2 p.m. on Thursday, March 10, 2022.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

[29] 17 CFR 200.30–3(a)(12).

Dated: March 3, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–04922 Filed 3–3–22; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94336; File No. SR–NYSEArca–2022–09]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Proprietary Market Data Fee Schedule

March 1, 2022.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on February 23, 2022, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Proprietary Market Data Fee Schedule (''Fee Schedule'') to adopt fees for the NYSE Options Open-Close Volume Summary market data product, effective March 1, 2022. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below,

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to adopt fees for the NYSE Options Open-Close Volume Summary,[4] which will be available for purchase by any market participant, *i.e.,* members [5] and non-members. The Exchange proposes to implement fees for the NYSE Options Open-Close Volume Summary market data product on March 1, 2022. The proposed fees would be applied equally to all market participants and all market participants would receive the same information in the data feed.

Background

By way of background, pursuant to the Product Filing, the Exchange adopted two versions of the NYSE Options Open-Close Volume Summary: An End of Day Volume Summary market data product and an Intra-Day Volume Summary market data product. The Exchange will initially offer the End of Day Volume Summary market data product and the purpose of this filing is to adopt fees for the End of Day Volume Summary market data product.[6] The End of Day Volume Summary provides a volume summary of trading activity on the Exchange at the option level by origin (Customer, Professional Customer, Firm, Broker-Dealer, and Market Maker [7]), side of the market (buy or sell), contract volume, and transaction type (opening or closing). The Customer, Professional Customer, Firm, Broker-Dealer, and Market Maker volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The NYSE Options Open-Close Volume Summary is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed.

The Exchange anticipates a wide variety of market participants to purchase the End of Day Volume Summary data product, including, but not limited to, individual customers, buy-side investors, and investment banks. The Exchange believes the End of Day Volume Summary would provide subscribers data that should enhance their ability to analyze options trade and volume data, and to create and test trading models and analytical strategies. The Exchange believes the End of Day Volume Summary will be a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular options series. The End of Day Volume Summary is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange notes that other exchanges offer a similar product.[8]

The End of Day Volume Summary is subject to direct competition from similar end of day options trading summaries offered by other options exchanges.[9] All of these exchanges offer essentially the same end of day options trading summary information. The options trading summary files offered by the Exchange's competitors are substitutes, not complements. The End of Day Volume Summary provides data on options market activity which can be used to infer longer-term trends. The information provided by one exchange is generally similar to that provided by other exchanges because order flow can move from one exchange to another, and market sentiment trends that appear on one exchange are likely to be similar to the sentiment trends on other exchanges. The key differentiator in the quality of the data depends on the volume of transactions on a given exchange. The greater the volume of transactions, the greater the value of the data.

Proposed Rule Change

The Exchange proposes to adopt subscription fees for the purchase of the End of Day Volume Summary on a monthly basis. The Exchange proposes to assess a fee of $750 per month for subscribing to the End of Day Volume Summary. The Exchange also proposes that for mid-month subscriptions, new subscribers will be charged for the full calendar month for which they subscribe and will be provided NYSE Options Open-Close Volume Summary data for each trading day of the calendar month in which they subscribed. The proposed monthly fees will apply to all market participants. The Exchange notes that other exchanges provide similar data products that may be purchased on a monthly basis and are comparably priced.[10]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is

[4] *See* Securities Exchange Act Release No. 93132 (September 27, 2021), 86 FR 54499 (October 1, 2021) (SR–NYSEArca–2021–82) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt a New Historical Market Data Product to Be Known as the NYSE Options Open-Close Volume Summary) (''Product Filing'').

[5] Members of the Exchange are OTP Firms, OTP Holders and ETP Holders.

[6] The Exchange intends to offer the Intra-Day Volume Summary market data product when the NYSE Arca options market transitions to the Pillar trading platform, anticipated for Q2 2022. The Exchange will submit a separate proposed rule change to establish fees for the Intra-Day Volume Summary product prior to its launch.

[7] The terms Customer, Professional Customer, Firm and Market Maker are defined in Rule 1.1, Definitions.

[8] *See* Securities Exchange Act Release Nos. 89497 (August 6, 2020), 85 FR 48747 (August 12, 2020) (SR–CboeBZX–2020–059); 89498 (August 6, 2020), 85 FR 48735 (August 12, 2020) (SR–Cboe–EDGX–2020–36); 85817 (May 9, 2019), 84 FR 21863 (May 15, 2019) (SR–CBOE–2019–026); 89496 (August 6, 2020), 85 FR 48743 (August 12, 2020) (SR–C2–2020–010); 89586 (August 17, 2020), 85 FR 51833 (August 21, 2020) (SR–C2–2020–012); 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR–Phlx–2010–121); 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR–NASDAQ–2011–144); 61317 (January 8, 2010), 75 FR 2915 (January 19, 2010) (SR–ISE–2009–103); 81632 (September 15, 2017), 82 FR 44235 (September 21, 2017) (SR–GEMX–2017–42); 91963 (May 21, 2021), 86 FR 28662 (May 27, 2021) (SR–EMERALD–2021–18); 91964 (May 21, 2012), 86 FR 28667 (May 27, 2021) (SR–PEARL–2021–24); and 91965 (May 21, 2021), 86 FR 28665 (May 27, 2021) (SR–MIAX–2021–18).

[9] *See* note 8, *supra.*

[10] *See* Price List—U.S. Derivatives Data for Nasdaq PHLX, LLC (''PHLX''), The Nasdaq Stock Market, LLC (''Nasdaq''), Nasdaq ISE, LLC (''ISE''), and Nasdaq GEMX, LLC (''GEMX''), *available at http://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#web.* Particularly, PHLX offers ''Nasdaq PHLX Options Trade Outline (PHOTO)'' and assesses $750 per month for an end of day subscription; Nasdaq offers the ''Nasdaq Options Trade Outline (NOTO)'' and assesses $500 per month for an end of day subscription; ISE offers the ''Nasdaq ISE Open/Close Trade Profile'' and assesses $750 per month for an end of day subscription; and GEMX offers the ''Nasdaq GEMX Open/Close Trade Profile'' and assesses $500 per month for an end of day subscription. Cboe EDGX Exchange, Inc. (''EDGX'') assesses $500 per month for an end of day subscription and Cboe BZX Exchange, Inc. (''BZX'') assesses $500 per month for an end of day subscription. *See* EDGX fee schedule *available at http://markets.cboe.com/us/options/membership/fee_schedule/edgx/;* and BZX fee schedule *available at http://markets.cboe.com/us/options/membership/fee_schedule/bzx/.* Miami International Securities Exchange, LLC (''MIAX''), MIAX Emerald, LLC (''Emerald'') and MIAX PEARL, LLC (''PEARL'') each assesses $600 per month for an end of day subscription. *See* MIAX Fee Schedule, *available at https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Options_Fee_Schedule_09282021.pdf;* Emerald Fee Schedule, *available at https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Emerald_Fee_Schedule_09282021.pdf;* and PEARL Fee Schedule, *available at https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Pearl_Options_Fee_Schedule_092821.pdf.*

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposal to adopt fees for the End of Day Volume Summary market data product is consistent with Section 6(b) of the Act [13] in general, and furthers the objectives of Section 6(b)(4) of the Act [14] in particular, in that it is an equitable allocation of dues, fees and other charges among its members and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. Particularly, the End of Day Volume Summary further broadens the availability of U.S. options market data to investors consistent with the principles of Regulation NMS. Subscribers to the data may also be able to enhance their ability to analyze options trade and volume data and create and test trading models and analytical strategies. The Exchange believes the End of Day Volume Summary would provide a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading. Moreover, other exchanges offer a similar data product.[15]

The Exchange operates in a highly competitive market. Indeed, there are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[16] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in November 2021, the Exchange had less than 13% market share of executed volume of multiply-listed equity and ETF options trades.[17]

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [18]

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC* upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system ''evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed'' and that the SEC wield its regulatory power ''in those situations where competition may not be sufficient,'' such as in the creation of a ''consolidated transactional reporting system.'' [19]

The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [20]

More recently, the Commission confirmed that it applies a ''market-based'' test in its assessment of market data fees, and that under that test:

> the Commission considers whether the exchange was subject to significant competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find that the terms of the rule violate the Act or the rules thereunder.[21]

Making similar historic data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supra-competitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of the End of Day Volume Summary data product.

The Exchange believes the proposed fees are reasonable as they are comparable to the fees assessed by other exchanges that provide similar data products.[22] Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. Like the End of Day Volume Summary, other exchanges offer similar data products that each provide insight into trading on those markets and may likewise aid in assessing investor sentiment. Although each of these similar data products provide only proprietary trade data and not trade data from other exchanges, it is possible investors are still able to gauge overall investor sentiment across different option series based on open and closing interest on any one exchange. Similarly, market participants may be able to analyze option trade and volume data, and create and test trading models and analytical strategies using only the End of Day Volume Summary data relating to trading activity on one or more of the other markets that provide similar data products. As such, if a market participant views another exchange's data as more attractive than the Exchange's data product, then such market participant can merely choose not to purchase the Exchange's data product and instead purchase another exchange's product, which offer similar data points, albeit based on that other market's trading activity.

The Exchange also believes the proposed fees are reasonable as they would support the introduction of a new historic market data product that is designed to aid investors by providing insight into trading on the Exchange.

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[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4).

[15] *See* note 8, *supra.*

[16] The Options Clearing Corporation (''OCC'') publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, *available here: https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[17] Based on OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.,* the Exchange's market share in multiply-listed equity and ETF options was 10.35% for the month of November 2020 and 12.99% for the month of November 2021.

[18] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[19] *NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. Cir. 2010) (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323).

[20] *Id.* at 535.

[21] *See* Securities Exchange Act Release No. 34–90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR–NYSENAT–2020–05) (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (ArcaBook Approval Order).

[22] *See,* note 10, *supra.*

Once the End of Day Volume Summary is made available, it would provide options market participants with valuable information about opening and closing transactions executed on the Exchange throughout the trading day, similar to other trade data products offered by competing options exchanges. In turn, this data would assist market participants in gauging investor sentiment and trading activity, resulting in potentially better-informed trading decisions. As noted above, subscribers may also use such data to create and test trading models and analytical strategies.

Selling historic market data is also a means by which exchanges compete to attract business. To the extent that the Exchange is successful in attracting subscribers to the Exchange's historic data product, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposed fees to be unfair or inequitable, subscribers can diminish or discontinue their use of the historic data and/or avail themselves of similar products offered by other exchanges.[23] The Exchange therefore believes that the proposed fees reflect the competitive environment and would be properly and equally assessed to all subscribers. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply equally to all subscribers who choose to purchase such data. Nothing in this proposal treats any category of market participant any differently from any other category of market participant. The End of Day Volume Summary is available to all market participants, *i.e.,* members and non-members, and all market participants would receive the same information in the data feed.

As noted above, the Exchange anticipates a wide variety of market participants to purchase the Exchange's data product, including but not limited to individual customers, buy-side investors and investment banks. The Exchange reiterates that the decision as to whether or not to purchase the End of Day Volume Summary is entirely optional for all potential subscribers. Indeed, no market participant is required to purchase the data product, and the Exchange is not required to make the data product available to market participants. Rather, the Exchange is voluntarily making the End of Day Volume Summary data product available, as requested by customers, and market participants may choose to receive (and pay for) this data based on their own business needs. Potential subscribers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

In sum, the fierce competition for order flow constrains any exchange from pricing its historic market data at a supra-competitive price, and constrains the Exchange here in setting its fees for the End of Day Volume Summary data product. As described above, the Exchange's data product competes head-to-head with numerous products currently available in the marketplace. These products each serve as reasonable substitutes for one another as they are each designed to provide data on options market activity which can be used to infer longer-term trends. The information provided by one exchange is generally similar to that provided by other exchanges because order flow can move from one exchange to another, and market sentiment trends that appear on one exchange are likely to be similar to the sentiment trends on other exchanges. The key differentiator in the quality of the data depends on the volume of transactions on a given exchange. The greater the volume of transactions, the greater the value of the historic data. The proposed fees are therefore reasonable because in setting them, the Exchange is constrained by the availability of numerous substitute venues offering historic market data products and trading. Such substitutes need not be identical, but only substantially similar to the product at hand.

More specifically, in setting fees for the End of Day Volume Summary, the Exchange is constrained by the fact that, if its pricing is unattractive to subscribers, subscribers have their pick of an increasing number of alternative venues to use instead of the Exchange. The existence of numerous alternatives to the Exchange ensures that the Exchange cannot set unreasonable fees for historic market data without suffering the negative effects of that decision in the fiercely competitive market in which it operates.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange also does not believe the proposed fees would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own comparable historic data product and adopt fees to better compete with the Exchange's offering. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to sell a data product similar to those offered by other competitor options exchanges.[24] The Exchange is offering the End of Day Volume Summary in order to keep pace with changes in the industry and evolving customer needs, and believes the data product will contribute to robust competition among national securities exchanges. At least eight other U.S. options exchanges offer a market data product that is substantially similar to the Exchange's offering. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price End of Day Volume Summary is constrained by competition among exchanges that offer similar data products to their customers. As discussed above, there are currently a number of similar products available to market participants and investors. At least eight other U.S. options exchanges offer a market data product that is substantially similar to the Exchange's offering, which the Exchange must consider in its pricing discipline in order to compete effectively.[25] For example, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as discussed, market participants are under no obligation to utilize or purchase. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fees would apply uniformly to any subscriber, in that the Exchange would not differentiate between subscribers that purchase the End of Day Volume Summary and all subscribers would receive the same information in the data feed. The Exchange believes the proposed fees are set at a modest level that would allow interested subscribers to purchase such data based on their business needs.

[23] *See,* note 8, *supra.*

[24] *Id.*

[25] *See,* note 10, *supra.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [26] of the Act and subparagraph (f)(2) of Rule 19b–4 [27] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [28] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2022–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2022–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2022–09 and should be submitted on or before March 28, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04675 Filed 3–4–22; 8:45 am]

BILLING CODE 8011–01–P

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(2).

[28] 15 U.S.C. 78s(b)(2)(B).

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94335; File No. SR–EMERALD–2021–38]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Exchange Rule 531 To Provide for a New Service Called the High Precision Network Time Signal Service

March 1, 2022.

I. Introduction

On November 19, 2021, MIAX Emerald, LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 531, Reports and Market Data Products, to provide for a new service called the ''High Precision Network Time Signal Service.'' The proposed rule change was published for comment in the **Federal Register** on December 7, 2021.[3] On January 19, 2022, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On February 18, 2022, the Exchange filed Amendment No. 1 to the proposed rule change.[6] The Commission has received no comments on the proposed rule change. This order provides notice of the filing of Amendment No. 1 to the proposed rule change, and grants approval to the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1

The Exchange proposes to provide for a new, optional service called the ''High Precision Network Time Signal Service'' (''Service''), which would enable members to synchronize their internal devices to the same time as the Exchange's devices with high precision.[7]

According to the Exchange, the U.S. Government's Global Positioning Satellite (''GPS'') clock time signal is the publicly-available benchmark that the Exchange and most, if not all, members use to synchronize their internal

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 93698 (December 1, 2021), 86 FR 69301 (December 7, 2021) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 94000 (January 19, 2022), 87 FR 3865 (January 25, 2022). The Commission designated March 7, 2022, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] In Amendment No. 1, the Exchange amended the proposal to provide additional detail, clarification, and justification regarding the proposed rule change and make a non-substantive change to streamline the proposed rule text. Amendment No. 1 is available on the Commission's website at *https://www.sec.gov/comments/sr-emerald-2021-38/sremerald202138-20116580-268058.pdf.*

[7] *See* proposed Rule 531(c); Amendment No. 1, at 4. The Exchange states that the proposed Service would be available to all members who choose to subscribe, and that any member may discontinue its subscription at any time. *See* Amendment No. 1, at 4 n.4., 14. The Exchange also states that it intends to submit a separate rule filing with the Commission to propose fees for the Service. *See id.* at 4 n.4.

primary clock devices.[8] Typically, a recipient's GPS antenna serves as a time signal receiver, which then feeds a primary clock device the Coordinated Universal Time (referred to as ''UTC'') [9] using a Precision Time Protocol (''PTP'').[10]

Currently, in terms of the Exchange synchronizing its own devices, the Exchange states that its primary clock feeds a time signal to the Exchange's timestamping devices within the Exchange's own network and provides sub-nanosecond level synchronization using an enhanced PTP (''Enhanced PTP'').[11] This Enhanced PTP time signal is used to synchronize the Exchange's capture devices (used to timestamp orders and messages as they travel through the Exchange's System) with each other at a sub-nanosecond level.[12]

In terms of members synchronizing their internal devices, the Exchange states that many members today attempt to synchronize their primary clock devices to the publicly-available GPS time signal by receiving this time signal through a GPS-capable antenna.[13] Members can thereby synchronize their primary clock devices to the GPS network time to within an accuracy of approximately 30 nanoseconds.[14] Using PTP, members can then synchronize their internal devices to their primary clock devices to within a few nanoseconds of one another.[15] Alternatively, some members may use their own Enhanced PTP with their primary clock devices to synchronize their timestamping devices at a sub-nanosecond level.[16]

However, because the Exchange and members independently access time signals from the GPS network and synchronize those time signals with their own primary clock devices, the Exchange states that measurement times of market events by the Exchange and a member may oscillate by approximately 30 or more nanoseconds.[17] This may lead to a member's time calculations of how long it took for an order or message to leave their systems and reach the intended trading center to err by as many as 30 nanoseconds.[18] According to the Exchange, this discrepancy may impair the member's ability to fully understand latencies within their own systems and whether they need to adjust their systems or trading models.[19]

The proposed Service would provide members with the Exchange's time signal at a sub-nanosecond level, allowing members to synchronize their own primary clock devices to the Exchange's primary clock device.[20] The Exchange states that this sub-nanosecond time signal would tell the member the Exchange's time at a sub-nanosecond level at a particular point in time.[21] Subscribing members would receive the time signal from the Exchange via a 1 gigabit connection that is currently offered by the Exchange and used by members and non-members to connect to the Exchange's system.[22] By then employing an Enhanced PTP clock synchronization device,[23] subscribing members could use that time signal to synchronize their own primary clock to the Exchange's primary clock at the more acute sub-nanosecond level.[24]

The Exchange proposes to provide the Service in response to member demand for tighter and more accurate clock synchronization options with the Exchange's network.[25] In this regard, the Exchange asserts that members may use the proposed Service for several purposes.[26] First, according to the Exchange, the proposed Service would enable members to more precisely measure latency between their network and that of the Exchange, as it would allow them to better understand the times at which an order or message reached certain points when traveling from their network to the Exchange.[27] Second, members may use the proposed Service to analyze the efficiency of their network and connections when receiving messages back from the Exchange (such as those regarding whether an order was accepted, rejected, or executed), measuring message traversal times by comparing their message's timestamp to the Exchange's matching engine timestamp from Exchange-generated acknowledgement messages.[28] Third, members may then use these enhanced latency measurements to better analyze latencies within their own systems and better assess the health of their network and that their systems are working as intended, and leverage this information to optimize their network, models, and trading patterns to potentially improve their interactions with the Exchange.[29] Finally, the Exchange states that members may use the proposed Service to assist with determining compliance with certain regulatory requirements, trade surveillance, and evaluating compliance with certain clock synchronization requirements.[30]

Separately, to enhance the clarity of Rule 531 in light of the proposed addition of the Service, the Exchange proposes to amend the title of Exchange Rule 531 to include the phrase ''and Services'' so that the title would read as ''Reports, Market Data Products and Services.'' [31]

[8] *See* Amendment No. 1, at 5. The Exchange states that a ''primary clock device'' is a precision ''parent'' clock that provides timing signals to synchronized secondary ''child'' clocks as part of an independent clock network. *See id.* at 5 n.8.

[9] According to the Exchange, the term ''Coordinated Universal Time'' is defined as the international standard of time that is kept by atomic clocks around the world, and is the primary time standard by which the world regulates clocks and time. *See id.* at 5 n.8.

[10] *See id.* at 5. According to the Exchange, ''Precision Time Protocol'' is a method used to synchronize clocks through a computer network. *See id.* at 5 n.8.

[11] *See id.* at 6. According to the Exchange, ''Enhanced PTP'' is commonly defined as a precision time protocol that is at a sub-nanosecond level. *See id.* at 6 n.9.

[12] *See id.* at 6.

[13] *See id.*

[14] *See id.*

[15] *See id.*

[16] In those cases, the Exchange and these members use separate Enhanced PTP devices. *See id.*

[17] *See id.* at 6–7.

[18] *See id.* at 7.

[19] *See id.*

[20] *See id.*

[21] *See id.* at 7. The Exchange states that the proposed Service would not include any trading data regarding the member's activity on the Exchange or include any data from other trading activity on the Exchange. *See id.* at 10.

[22] *See id. See also* MIAX Emerald Fee Schedule, Section 5, System Connectivity Fees. The Exchange states that it does not propose to include additional connectivity options or modify existing connectivity options as part of this proposal, and that members may continue to use their existing methods to connect and send orders to the Exchange. *See* Amendment No. 1, at 10.

[23] According to the Exchange, an ''Enhanced PTP clock synchronization device'' captures time and coordinates time synchronization within a network at a sub-nanosecond level. *See* Amendment No. 1, at 8 n.13. In conjunction with the proposed Service, a member's Enhanced PTP clock synchronization device would be used to synchronize clocks within the member's own system at a sub-nanosecond level, enabling the member to record certain times an order or message traveled through and leaves the member's system at a sub-nanosecond level. Some members may currently have an Enhanced PTP clock synchronization device within their own network. This device is not provided by the Exchange. The Exchange states that other members that do not currently have an Enhanced PTP clock synchronization device would need to acquire one from a third party vendor, of which there are several providers. *See id.* at 8.

[24] *See id.* at 7–8.

[25] *See id.* at 4–5.

[26] *See id.* at 8.

[27] *See id.*

[28] *See id.* at 8–9. The Exchange states that it sends members an acknowledgement message that their order or message was received by the Exchange, which includes the time of receipt at a nanosecond level. *See id.* at 9 n.14.

[29] For example, according to the Exchange, a member may use this information when analyzing the efficacy of their various connections and whether a connection is performing as expected or experiencing a delay. A member may then decide to rebalance the amount of orders and/or messages over its various connections to ensure each connection is operating with maximum efficiency. *See id.* at 9.

[30] *See id.*

[31] *See id.* at 10.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[32] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[33] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and that those rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As discussed above, the Exchange's proposed Service would provide members with the ability to improve the degree of clock synchronization between their systems and the Exchange's systems. The Commission has stated previously that clock synchronization is a critical component of today's market structure,[34] and that it is reasonable to expect that finer clock synchronization for market participants will evolve over time.[35] The Commission believes that the finer clock synchronization enabled by the proposed Service is consistent with such evolvement and advancements in technology, and would provide members with a tool that enables them to more precisely calculate and better understand order and message latencies. The Commission therefore believes that the proposal is reasonably designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, consistent with Section 6(b)(5) of the Act. In addition, the proposal would promote just and equitable principles of trade and not permit unfair discrimination, consistent with Section 6(b)(5) of the Act, insofar as the proposed Service would be available to all Exchange members.

The Commission also believes that the proposal is consistent with Section 6(b)(5) of the Act because it would help protect investors and the public interest to the extent that improved clock synchronization would enhance subscribing members' ability to comply with regulatory requirements and perform trade surveillance. In addition, the proposed revision of Exchange Rule 531's title to ''Reports, Market Data Products and Services'' should help market participants understand what is set forth in the rule, consistent with the Section 6(b)(5) goal of protecting investors and the public interest.

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–EMERALD–2021–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. SR–EMERALD–2021–38. The file numbers should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File No. SR–EMERALD–2021–38 and should be submitted on or before March 28, 2022.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the amended proposal in the **Federal Register**. In Amendment No. 1, the Exchange amended the proposal to provide additional detail, clarification, and justification regarding the proposed rule change and make a non-substantive change to streamline the proposed rule text. Amendment No. 1 adds clarity and justification to the proposal, and does not alter the proposed Service functionality from what is set forth in the Notice, which was subject to a full comment period. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[36] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[37] that the proposed rule change (SR–EMERALD–2021–38), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04674 Filed 3–4–22; 8:45 am]

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[32] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[33] 15 U.S.C. 78f(b)(5).

[34] *See* Securities Exchange Act Release No. 77565 (April 8, 2016), 81 FR 22136, 22138 (April 14, 2016) (SR–FINRA–2016–005) (Order Approving a Proposed Rule Change To Reduce the Synchronization Tolerance for Computer Clocks That Are Used To Record Events in NMS Securities and OTC Equity Securities).

[35] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84785–86 (November 23, 2016) (File No. 4–698) (Order Approving the National Market System Plan Governing the Consolidated Audit Trail).

[36] 15 U.S.C. 78s(b)(2).

[37] *Id.*

[38] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2022–0017]

Petition for Modification of Standards and Alternate Compliance

Under part 232 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on February 8, 2022, the HeritageRail Alliance (HRA) (co-sponsored jointly by the Railroad Passenger Car Alliance (RPCA)) petitioned the Federal Railroad Administration (FRA) for a modification of standards and alternate compliance in accordance with 49 CFR 232.307, *Modification of brake test procedures,* pertaining to the Federal railroad safety regulations contained at 49 CFR 232.717, *Freight and passenger train car brakes.* FRA assigned the petition Docket Number FRA–2022–0017.

Specifically, HRA/RPCA requests a modification of standards and alternative compliance pursuant to 49 CFR 232.717(d) using HRA Recommended Practice RP–001–21, which includes proposed alternate compliance methods to fulfill the requirements of § 232.717, *Freight and passenger train car brakes.*[1] HRA states that many tourist/museum operations employ obsolete equipment types that are not subject to current Association of American Railroads (AAR) Interchange Rules, nor any other currently published maintenance standard, and that in recent years the maintenance of railroad mechanical systems has moved away from prescribed periodic attention to performance based systems, and that the assurance of safety is achieved by employing more frequent periodic testing (primarily single car tests) to detect degradation of performance. Railroads have also identified opportunities to extend service intervals through application of newer materials, and as tourist and excursion equipment is often used infrequently, extended service periods may be warranted. The Recommended Practice includes justification of the reduction of cleaning, oiling, testing, and stenciling periods (an activity that in itself can degrade the performance and service life of the equipment), and provides documentation guides on the operating history to assure compliance with the conditions of the extension.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by May 6, 2022 will be considered by FRA before final action is taken. Pursuant to § 232.307(d), if no comment objecting to the requested modification is received during the 60-day comment period, or if FRA does not issue a written objection to the requested modification, the modification will become effective May 23, 2022.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2022–04763 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2007–0007]

Petition for Expansion of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on July 9, 2020, SMS Rail Service (SLRS) petitioned the Federal Railroad Administration (FRA) to expand a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 223 (Safety Glazing Standards—Locomotives, Passenger Cars and Cabooses). The relevant FRA Docket Number is FRA–2007–0007.

Specifically, SLRS requests to expand its existing relief from 49 CFR 223.11, *Requirements for existing locomotives,* for locomotive SLRS 308, which is currently operated within the Pureland Industrial Park in Bridgeport, New Jersey. SLRS requests to expand the service area to include Penn Warner Industrial Park in Morrisville, Pennsylvania. In support of its request, SLRS states that neither area has a history of vandalism or broken glass, nor overhead bridges or tunnels. Additionally, SLRS notes that track speeds are restricted speed not exceeding 10 miles per hour.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by April 21, 2022 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.*

[1] To view the Recommended Practice, *see https://www.regulations.gov/document/FRA-2022-0017-0001.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2022–04762 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0049]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: REEL ADVENTURE (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0049 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0049 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0049, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel REEL ADVENTURE is:

—*Intended Commercial Use of Vessel:* ''Fishing charter.''

—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: San Pedro, CA)

—*Vessel Length and Type:* 44.8′ Motor.

The complete application is available for review identified in the DOT docket as MARAD 2022–0049 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0049 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–04741 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0047]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: LE REVE (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0047 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0047 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0047, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel LE REVE is:

—*Intended Commercial Use of Vessel:* ''The intended commercial use of the vessel will be to Charter, transporting paid customers.''

—*Geographic Region Including Base of Operations:* ''New York, New Jersey, Connecticut, Rhode Island, Maine, New Hampshire, Massachusetts, and Florida.'' (Base of Operations: St. Thomas, USVI)

—*Vessel Length and Type:* 62′ Sail (Catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2022–0047 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0047 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–04737 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0045]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: LA FILLE D'OR (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0045 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0045 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0045, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel LA FILLE D'OR is:

—*Intended Commercial Use of Vessel:* ''Chartering passengers—will be transporting paid customers from port to designated port.''

—*Geographic Region Including Base of Operations:* ''Rhode Island, New York, Connecticut, Virginia, North Carolina, South Carolina, Georgia, Florida'' (Base of Operations: Newport, RI)

—*Vessel Length and Type:* 57′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2022–0045 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0045 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–04732 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0041]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: DOLPHIN (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0041 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0041 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0041, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel DOLPHIN is:

—*Intended Commercial Use of Vessel:* ''Day sailing charters for small groups. Typically, the charters are two hours long and are intended for sightseeing aboard a traditional wooden sailboat.''

—*Geographic Region Including Base of Operations:* ''Massachusetts, Rhode Island, Florida, and California'' (Base of Operations: Edgartown, MA)

—*Vessel Length and Type:* 29′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2022–0041 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0041 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–04739 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0040]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: DOLCE VITA (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0040 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0040 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0040, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel DOLCE VITA is:

—*Intended Commercial Use of Vessel:* ''Private yacht charters for tourists and locals.''

—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Clearwater Beach, FL)

—*Vessel Length and Type:* 63′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0040 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0040 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–04736 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0046]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: LA VIE EN ROSE (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0046 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0046 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0046, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel LA VIE EN ROSE is:

—*Intended Commercial Use of Vessel:* ''The vessel will be used as part of an existing learn-to-sail program at the Northwest Maritime Center, a non-profit maritime educational institution in Port Townsend, WA. US Sailing accredited instruction and private charter lessons will be taught on this vessel under a six pack (OUPV) license.''

—*Geographic Region Including Base of Operations:* ''Washington'' (Base of Operations: Port Townsend, WA)

—*Vessel Length and Type:* 41′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2022–0046 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0046 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves,

all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–04733 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0044]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: IT'S ALL GOOD (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0044 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0044 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0044, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel IT'S ALL GOOD is:

—*Intended Commercial Use of Vessel:* ''UPV, less than or equal to 6 passengers for hire.''

—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Destin, FL)

—*Vessel Length and Type:* 49.9′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0044 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0044 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–04738 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0048]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MAGNUM OPUS (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0048 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0048 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0048, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email James.Mead@*dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel MAGNUM OPUS is:

—*Intended Commercial Use of Vessel:* ''Carrying passengers for hire.''

—*Geographic Region Including Base of Operations:* ''Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, and Massachusetts.'' (Base of Operations: Stuart, FL)

—*Vessel Length and Type:* 35′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0048 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0048 or visit the Docket Management Facility (see ADDRESSES for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves,

all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–04740 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0043]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: INTERSTELLAR (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0043 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0043 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0043, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel INTERSTELLAR is:

—*Intended Commercial Use of Vessel:* ''Carrying passengers for hire for the purpose of pleasure charters, sightseeing charters, and education/training in seamanship and sailing. Operating durations will be days or multiple days with overnight on vessel. Areas of operation will be inland waterways and coastal.''

—*Geographic Region Including Base of Operations:* ''Alabama'' (Base of Operations: Gulf Shores, AL)

—*Vessel Length and Type:* 50′ Sail (Catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2022–0043 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0043 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether

or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–04735 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0042]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: GABRIELA (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0042 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0042 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0042, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel GABRIELA is:

—*Intended Commercial Use of Vessel:* ''Passenger for hire.''
—*Geographic Region Including Base of Operations:* ''Puerto Rico'' (Base of Operations: Fajardo, PR)
—*Vessel Length and Type:* 28′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0042 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0042 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–04734 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0039]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: CATCH ME (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0039 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0039 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0039, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel CATCH ME is:

—*Intended Commercial Use of Vessel:* ''Sightseeing charter.''

—*Geographic Region Including Base of Operations:* ''California'' (Base of Operations: San Diego, CA)

—*Vessel Length and Type:* 50′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0039 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0039 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–04731 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0050]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: THE MATRIX (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0050 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0050 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0050, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel THE MATRIX is:

—*Intended Commercial Use of Vessel:* ''Recreational charters.''

—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Fort Lauderdale, FL)

—*Vessel Length and Type:* 64′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0050 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0050 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–04742 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2022–0018]

Agency Information Collection Activities; Notice and Request for Comment; Title: FMVSS Considerations for Vehicles With Automated Driving Systems: Seating Preference Study

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for approval of a new information collection.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for a new information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes a collection of information for which NHTSA intends to seek OMB approval to conduct an experiment to gather both objective and subjective data regarding occupant/passenger seat preference in Automated Driving System-Dedicated Vehicles (ADS–DVs).

DATES: Comments must be submitted on or before May 6, 2022.

ADDRESSES: You may submit comments identified by the Docket No. NHTSA–2022–0018 through any of the following methods:

- *Electronic Submissions:* Go to the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail or Hand Delivery:* Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. To be sure someone is there to help you, please call (202) 366–9322 before coming.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *https://www.transportation.gov/privacy.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets via internet.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Arryn Robbins, Office of Behavioral Safety Research (NPD–320), (202) 366–8996, National Highway Traffic Safety Administration, W46–466, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) how to enhance the quality, utility, and clarity of the information to be collected; and (d) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: FMVSS Considerations for Vehicles with Automated Driving Systems: Seating Preference Study.

OMB Control Number: New.

Form Number(s): NHTSA Forms 1624, 1625, and 1626.

TABLE 1—FORMS TO BE USED IN THE STUDY

NHTSA Form 1624.	Eligibility Questionnaire—FMVSS Considerations for Vehicles with Automated Driving Systems: Seating Preference Study.
NHTSA Form 1625.	Demographic Questionnaire—FMVSS Considerations for Vehicles with Automated Driving Systems: Seating Preference Study.
NHTSA Form 1626.	Post Experiment Questionnaire—FMVSS Considerations for Vehicles with Automated Driving Systems: Seating Preference Study.

Type of Request: New collection.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: 3 years from date of approval.

Summary of the Collection of Information: 49 U.S.C. 30181, 30182, and 30183 authorize the Secretary of Transportation (NHTSA by delegation) to conduct research, development, and testing programs, including activities related to new and emerging technologies that impact, or that may impact, motor vehicle safety. NHTSA proposes to collect information from the public regarding occupant/passenger seat preference in Automated Driving System-Dedicated Vehicles (ADS–DVs). Adults aged 18 and older will participate in an on-road study after giving informed consent. Participants will ride in one passenger vehicle and two ADS–DVs on a closed test track. Questionnaire data will be collected at the beginning and end of participation for each participant. Objective data will be collected via the data acquisition systems installed in each study vehicle. The data from each participant will be combined, stratified by demographic information and analyzed.

There are four information collections for the study. The (1) Eligibility

Questionnaire will be used to identify eligible participants for this study; results from this questionnaire will not be kept or analyzed. Candidates who are selected for the study will participate in a single test-track experiment and will complete two additional questionnaires while participating in the experiment. The (2) Demographic Questionnaire will be used for description of the participant sample (*e.g.,* number of males and females in the dataset, final age range for all participants, and driving experience range for all participants). This is necessary to compare the sample collected to the general driving population. The (3) objective data collected via data acquisition systems installed in each study vehicle during the test-track experiment is necessary for collecting information about participants' seat selection, any seat changes during the ride, seat belt use, and how participants interact with the HMI. The (4) Post Experiment Questionnaire will be used to analyze the perceptions and opinions of ADS–DV technology within the participant sample, as well as to gather any comments regarding their seat preference and seat belt use. This data will be used to determine how and why participants choose seating preferences in ADS–DVs.

Description of the Need for the Information and Proposed Use of the Information

The National Highway Traffic Safety Administration's (NHTSA's) mission is to save lives, prevent injuries, and reduce economic losses resulting from motor vehicle crashes. ADS technology is rapidly developing, and current Federal motor vehicle safety standards (FMVSS) and/or NHTSA guidance may need to be adapted to ensure this technology is deployed safely. Many of NHTSA's FMVSS focus on particular seating positions and thus, changes in seating preferences could impact those FMVSS. This study will provide NHTSA information about the seating preferences of occupants in vehicles that do not require a human driver in the left front seat. Several safety outcomes stem from occupant seating preference, which may change in the future as Automated Driving Systems (ADS) change seating configurations and the way people use vehicles. ADS-Dedicated Vehicles (ADS–DVs) are vehicles that lack manually operated driving controls, and therefore do not require a human driver or occupant to drive the vehicle or sit in the left front seat (the ''driver's seat'' in conventional vehicles). In conventional vehicles, there is the basic assumption that a human will always be in the left front seat while the vehicle is operating because a human driver would be necessary to operate those vehicles. ADS–DVs provide the opportunity for occupants to sit in any seat they choose in the vehicle. It is currently unknown where occupants may choose to sit when riding in an ADS–DV. Moreover, new seating configurations for occupants of ADS–DVs may necessitate changes to how and where information is presented to occupants about their responsibilities as occupants (*e.g.,* closing doors, fastening seatbelts). Furthermore, occupants will need a human-machine interface (HMI) to provide input that they are ready for the ride to begin, or to request that the ride stop. At present, no standardized or otherwise commercially produced HMIs exist for this purpose. Therefore, in order to conduct the research, a prototype HMI will be developed. The two main goals for this study are to:

1. Describe the occupant distribution for ADS–DVs (*i.e.,* seating distribution).

2. Use the prototype HMI to evaluate whether occupants would choose to initiate a ride in an ADS–DV without a seatbelt.

Affected Public: Adults ages 18 and older who meet eligibility criteria such as holding a valid driver's license and having used a ride-sharing application at least once in the past year.

Estimated Number of Respondents: An expected total of up to 100 participants will be recruited to participate in the study. It is estimated that 200 respondents will be needed in order to identify 100 eligible participants.

Frequency: One-time collection.

Estimated Total Annual Burden Hours: 268.

The eligibility questionnaire will have a maximum of 28 questions and NHTSA estimates it will take approximately 20 minutes to complete. Therefore, NHTSA estimates the total time associated with completing eligibility questionnaires to be 67 hours (200 responses × 20 minutes = 66.7 hours). Study Intake, (reading study information sheet and obtaining participant consent, general study instruction) is expected to take 10 minutes to complete. Both the demographic and post-experiment questionnaires will have a maximum of 20 questions and NHTSA estimates that it will take each eligible participant 10 minutes to complete the demographic questionnaire and 10 minutes to complete the post-experiment questionnaire. Therefore, NHTSA estimates the total burden for Study Intake to be 17 hours (100 responses × 10 minutes = 16.67 hours), Demographic Questionnaire to be 17 hours (100 responses × 10 minutes = 16.67 hours), and The Post Experiment questionnaire to be 17 hours (100 responses × 10 minutes = 16.67 hours). Accordingly, NHTSA estimates the total burden hours for this information collection to be 268 hours.

The table below shows the estimated burden hours for this information collection, which accounts for the maximum number of expected responses and drop-outs.

ESTIMATED BURDEN HOURS

Instrument	Maximum number of respondents	Estimated individual burden (minutes)	Total estimated burden hours
Eligibility Questionnaire	200	20	67
Study Intake	100	10	17
Demographic questionnaire	100	10	17
Study Participation	100	90	150
Post Experiment Questionnaire	100	10	17
Total	200	60	268

Estimated Total Annual Burden Cost: The only cost burdens respondents will incur are costs related to travel to and from the study location. The costs are minimal and are expected to be offset by

the honorarium that will be provided to all research participants.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29.

Cem Hatipoglu,

Associate Administrator, Vehicle Safety Research.

[FR Doc. 2022–04755 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

[Docket Number DOT–OST–2017–0043]

Agency Information Collection Activity: Notice To Continue To Collect Information: Barrier Failure Reporting in Oil and Gas Operations on the Outer Continental Shelf

AGENCY: Bureau of Transportation Statistics (BTS), Office of the Assistant Secretary for Research Technology (OST–R), U.S. Department of Transportation.

ACTION: 30-Day notice.

SUMMARY: The U.S. Department of Transportation (US DOT) BTS published a 60-day comment period Notice 86 FR 58391 on October 21, 2021 seeking public input to continue the collection of barrier failure data. Barrier Failure Reporting in Oil and Gas Operations on the Outer Continental Shelf is a component of BTS's SafeOCS data sharing framework, that provides a trusted, proactive means for the oil and gas industry to report sensitive and proprietary safety information, and to identify early warnings of safety problems and potential issues by uncovering hidden, at-risk conditions not previously exposed through analysis of reportable equipment failures and incidents. BTS received no comments during the 60-day public comment period.

DATES: Comments must be received by April 6, 2022.

ADDRESSES: BTS seeks public comments on its proposed information collection. Comments should address whether the information will have practical utility; the accuracy of the estimated burden hours of the proposed information collection' ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: BTS Desk Officer.

FOR FURTHER INFORMATION CONTACT: Demetra V. Collia, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology, U.S. Department of Transportation, Office of Safety Data and Analysis (OSDA), RTS–34, E36–302, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; Phone No. (202) 366–1610; Fax No. (202) 366–3383; email: *demetra.collia@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m., EST, Monday through Friday, except Federal holidays.

Data Confidentiality Provisions: This data collection is protected under the BTS confidentiality statute (49 U.S.C. 6307 (b)) and the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2018 (Pub. L.: 115–435 Foundations for Evidence-Based Policymaking Act of 2018, Title III.) In accordance with these confidentiality statutes, only statistical and non-identifying data will be made publicly available through reports. Further, BTS will not release to Bureau of Safety and Environment Enforcement (BSEE) or any other public or private entity any information that might reveal the identity of individuals or organizations mentioned in SafeOCS reports.

SUPPLEMENTARY INFORMATION:

I. The Data Collection

The Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35; as amended) and 5 CFR part 1320 require each Federal agency to obtain OMB approval to continue an information collection activity. BTS is seeking OMB approval for the following BTS information collection activity:

Title: Barrier Failure Reporting in Oil and Gas Operations on the Outer Continental Shelf.

OMB Control Number: 2138–0046.

Type of Review: Approval to Continue to Collect.

Respondents: BTS has entered a MOU with BSEE to facilitate the collection of information from respondents identified in the BSEE notices for OMB Control Number 1014–0028 and OMB Control Number 1014–0003. Responsibility for establishing the actual scope and burden for this collection resides with BSEE. This BTS information collection request does not create any additional burden for respondents. For the purposes of this collection BTS has identified BSEE as the sole respondent.

Number of Respondents: As a request to be authorized repository for previously collected information, BTS has identified BSEE as the sole respondent reporting to BTS at the annual frequency of one.

Estimated Time per Response: 60 minutes.

Frequency: Once.

Total Annual Burden: 1 hour.

BTS has agreed through a Memorandum of Understanding (MOU) with BSEE to undertake the information collection identified in the previously approved BSEE notice for OMB Control Number(s) 1014–0028, expiration 4/30/2019 and the BSEE notice with OMB Control Number 1014–0003, expiration 8/31/2019, to ensure the confidentiality of submissions under CIPSEA. The information collection is limited to the establishment of BTS as an authorized repository. This information collection request does not create any additional burden for respondents.

II. Public Participation and Request for Public Comments

On October 18, 2021, the DOT published a notice in the **Federal Register** (86 FR 57744) encouraging interested parties to submit comments and allowing for a 60-day comment period on the collection entitled ''Barrier Failure Reporting in Oil and Gas Operations on the Outer Continental Shelf.'' The comment period closed on December 17, 2021. No comments were submitted to the docket during that time.

The notice can be viewed at, *http://www.regulations.gov,* and typing in the Docket Number 2021–22279. If you do not have access to the internet, you may view the docket by visiting the Docket Management Facility in Room W12–140 on the ground floor of the U.S. DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

Privacy Act

All comments the BTS receives are posted without change to *http://www.regulations.gov.* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on January 17, 2008 (73 FR 3316), or you may visit *https://www.gpo.gov/fdsys/pkg/FR-2017-03-30/pdf/2017-06272.pdf.*

III. Discussion of Public Comments and BTS Responses

On October 18, 2021 in a **Federal Register** Notice (86 FR 57744), BTS announced its intention to request OMB approval for continuing to collect barrier failure data in oil and gas operations on the Outer Continental Shelf. BTS received no comments during the 60-day public comment period.

Demetra V. Collia,

Director, Bureau of Transportation Statistics, Office of Safety Data and Analysis.

[FR Doc. 2022–04682 Filed 3–4–22; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action

On March 1, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. MBAGA, Peter Charles (a.k.a. ''ABU KAIDHA''; a.k.a. ''Issa''), Johannesburg, South Africa; DOB 25 Sep 1976; nationality Tanzania; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport AB321592 (Tanzania) expires 08 Mar 2019 (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND SYRIA—MOZAMBIQUE).

Designated pursuant to section 1(a)(iii)(C) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,'' 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, ''Modernizing Sanctions To Combat Terrorism,'' 84 FR 48041 (E.O. 13224, as amended), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC STATE OF IRAQ AND SYRIA—MOZAMBIQUE, a person whose property and interests in property are blocked pursuant to E.O. 13224.

2. HOOMER, Farhad (a.k.a. OMAR, Farhad; a.k.a. UMAR, Farhaad; a.k.a. 'UMAR, Farhad), 57 Spathodia Drive, Isipingo Hills, KwaZulu Natal 4133, South Africa;72 Riley Road, Overport, Essenwood, Berea 4001, South Africa; 9 Nugget Road, Reservoir Hills, Durban 4090, South Africa; DOB 18 Nov 1976; nationality South Africa; citizen South Africa; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport A05256584 (South Africa); alt. Passport A04151202 (South Africa); National ID No. 7611185236087 (South Africa) (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC STATE OF IRAQ AND THE LEVANT, a person whose property and interests in property are blocked pursuant to E.O. 13224.

3. MILLER, Siraaj, 34 Lupin, Lentegeur, Mitchells Plain, Cape Town, South Africa; DOB 28 Sep 1977; POB Cape Town, South Africa; nationality South Africa; citizen South Africa; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 7709285116082 (South Africa) (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC STATE OF IRAQ AND THE LEVANT, a person whose property and interests in property are blocked pursuant to E.O. 13224.

4. ABADIGGA, Abdella Hussein (a.k.a. ABADIGGA, Abdella Asid; a.k.a. ABADIKA, Abdallah Asid; a.k.a. USSENI, Abdallah; a.k.a. ''ABU HAMZA''; a.k.a. ''CARLOS, Abdi''), 48 Central Road, New Town, Johannesburg, South Africa; DOB 01 Feb 1974; POB Jimma, Oromia Regional State, Ethiopia; nationality Ethiopia; citizen Ethiopia; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport T00043812 (South Africa); Refugee ID Card 7402016297260 (South Africa) (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC STATE OF IRAQ AND THE LEVANT, a person whose property and interests in property are blocked pursuant to E.O. 13224.

Dated: March 1, 2022.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–04693 Filed 3–4–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Waiver of Right to Consistent Agreement of Partnership Items and Partnership-Level Determinations as to Penalties, Additions to Tax, and Additional Amounts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing

information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning procedure for waiver of right to consistent agreement of partnership items and partnership-level determinations as to penalties, additions to tax, and additional amounts.

DATES: Written comments should be received on or before May 6, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *omb.unit@irs.gov.* Include OMB control number 1545–1969 or Waiver of Right to Consistent Agreement of Partnership Items and Partnership-Level Determinations as to Penalties, Additions to Tax, and Additional Amounts in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis at (202) 317–5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.L.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Waiver of Right to Consistent Agreement of Partnership Items and Partnership-Level Determinations as to Penalties, Additions to Tax, and Additional Amounts.

OMB Number: 1545–1569.

Form Number: 13751.

Abstract: The information requested on Form 13751 will be used to determine the eligibility for participation in the settlement initiative of taxpayers related through TEFRA partnerships to ineligible applicants. Such determinations will involve partnership items and partnership-level determinations, as well as the calculation of tax liabilities resolved under this initiative, including penalties and interest.

Current Actions: There is no change to the regulation or burden at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, Business or other for-profit organizations, not-for-profit institutions.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 1 hours.

Estimated Total Annual Burden Hours: 100 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 1, 2022.

Kerry L. Dennis,

Tax Analyst.

[FR Doc. 2022–04706 Filed 3–4–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0867]

Agency Information Collection Activity Under OMB Review: Health Eligibility Center (HEC) Income Verification (IV) Forms

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0867.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0867'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–3521.

Title: Health Eligibility Center (HEC) Income Verification (IV) Forms, VA Forms 10–301, 10–302, 10–302A, 10–303, and 10–304.

OMB Control Number: 2900–0867.

Type of Review: Reinstatement of a previously approved collection.

Abstract: VHA Directive 1909 provides policy for the Department of Veterans Affairs (VA) Health Eligibility Center (HEC) Income Verification (IV) Program under authority of 38 United States Code (U.S.C.) 1722; 38 U.S.C. 5317. Title 38 U.S.C. 1722 established eligibility assessment procedures, based on income levels, for determining whether nonservice-connected (NSC) Veterans and non-compensable zero percent service-connected (SC) Veterans, who have no other special eligibility, are eligible to receive VA health care at no cost. Title 26 U.S.C. 6103 (l)(7) of the Internal Revenue Code and 38 U.S.C. 5317 establish authority for VA to verify Veterans' gross household income information against records maintained by the Internal Revenue Service (IRS) and Social Security Administration (SSA) when that information indicates the Veteran is eligible for cost-free VA health care.

This information collection is necessary for HEC's Income Verification Division (IVD) to verify the income of Veterans and spouses. HEC IVD sends Veterans, and their spouses, individual letters to confirm income information reported by IRS and SSA. HEC does not change the Veteran's copay status until information supplied by IRS and SSA has been independently verified, either by the Veteran or through appropriate due process procedures.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB

control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 86 FR 223 on November 23, 2021, pages 66619 and 66620.

Affected Public: Individuals or Households.

Estimated Annual Burden: Total hours = 49,758.

10–301—27,948 hours.
10–302—5,679 hours.
10–302a—1,420 hours.
10–303—42 hours.
10–304—14,669 hours.

Estimated Average Burden per Respondent:

10–301—30 minutes.
10–302—20 minutes.
10–302a—15 minutes.
10–303—15 minutes.
10–304—20 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: Total Respondents = 122,789.

10–301—55,896.
10–302—17,038.
10–302a—5,680.
10–303—167.
10–304—44,008.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–04683 Filed 3–4–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Rehabilitation, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that a meeting of the Veterans' Advisory Committee on Rehabilitation (hereinafter the Committee) will be held virtually Wednesday, April 6 and Thursday, April 7, 2022, from 10:00 a.m. to 4:00 p.m. EST on both days. The meeting sessions are open to the public.

The purpose of the Committee is to provide advice to the Secretary of VA on the rehabilitation needs of Veterans with disabilities and on the administration of VA's Veteran rehabilitation programs. The Committee members will continue to receive briefings on employment programs and services designed to enhance the delivery of services for the rehabilitation potential of Veterans and discuss recommendations to be included in the Committee's following annual comprehensive report.

Although no time will be allocated for receiving oral presentations from the public, members of the public may submit written statements for review by the Committee to Latrese Thompson, Designated Federal Officer, Veterans Benefits Administration (28), 810 Vermont Avenue NW, Washington, DC 20420, or via email at *Latrese.Thompson@va.gov.* In the communication, writers must identify themselves and state the organization, association, persons or persons they represent.

For any members of the public who wish to attend virtually, please use the Microsoft Teams Meeting link: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_YjZmZmIyZDAtYzFlYi00OGUxLTk3ZTMtNDhmN2IyMWRjMjlk%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%228252bbc1-b123-48c8-aa1c-6f43c7d548c7%22%7d.*

Or call in (audio only) +1 872–701–0185, 377848130# United States, Chicago.

Phone Conference ID: 377 848 130#.

Dated: March 2, 2022.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–04730 Filed 3–4–22; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 87 Monday,
No. 44 March 7, 2022

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1
Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2022–0051, Sequence No. 2]

Federal Acquisition Regulation; Federal Acquisition Circular 2022–05; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of a final rule.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2022–05. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC.

DATES: For effective date see the separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: Ms. Mahruba Uddowla, Procurement Analyst, at 703–605–2868 or by email at *mahruba.uddowla@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2022–05, FAR Case 2021–008.

RULE LISTED IN FAC 2022–05

Subject	FAR case
Amendments to the FAR Buy American Act—Requirements	2021–008

ADDRESSES: The FAC, including the SECG, is available at *https://www.regulations.gov.*

SUPPLEMENTARY INFORMATION: A summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR rule, refer to the specific subject set forth in the document following this summary. FAC 2022–05 amends the FAR as follows:

Amendments to the FAR Buy American Act Requirements (FAR Case 2021–008)

This final rule amends the Federal Acquisition Regulation (FAR) to implement section 8 of E.O. 14005, Ensuring the Future Is Made in All of America by All of America's Workers. Upon the October 25, 2022, effective date, this final FAR rule changes the domestic content threshold to 60 percent immediately, then to 65 percent for items delivered starting in calendar year 2024, and then to 75 percent for items delivered starting in calendar year 2029. While a supplier that is awarded a contract with a period of performance that spans this schedule of domestic content threshold increases will be required to comply with each increased threshold for the items in the year of delivery, this rule allows for the agency senior procurement executive to apply an alternate domestic content test under which the contractor would be required to comply with the domestic content threshold in place at time of award for the entire life of the contract.

This final rule also creates a fallback threshold that would allow for products and construction material meeting a 55 percent domestic content threshold to qualify as ''domestic'' under certain circumstances.

In addition, the final rule creates a framework for application of an enhanced price preference for a domestic product/domestic construction material that is considered a critical item or made up of critical components. The list of critical items and critical components, along with the associated enhanced price preference, will be incorporated in the FAR through separate rulemaking.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2022–05 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2022–05 is effective March 7, 2022 except for FAR Case 2021–008, which is effective October 25, 2022.

John M. Tenaglia,

Principal Director, Defense Pricing and Contracting, Department of Defense.

Jeffrey A. Koses,

Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Karla Smith Jackson,

Assistant Administrator for Procurement, Senior Procurement Executive, National Aeronautics and Space Administration.

[FR Doc. 2022–04179 Filed 3–4–22; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 13, 25 and 52

[FAC 2022–05; FAR Case 2021–008, Docket No. 2021–0008, Sequence No. 1]

RIN 9000–AO22

Federal Acquisition Regulation: Amendments to the FAR Buy American Act Requirements

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement an Executive order addressing domestic preferences in Government procurement.

DATES: *Effective:* October 25, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Mahruba Uddowla, Procurement Analyst, at 703–605–2868 or by email at *mahruba.uddowla@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2022–05, FAR Case 2021–008.

SUPPLEMENTARY INFORMATION:

I. Background

In his first week in office, President Biden signed Executive Order (E.O.) 14005, *Ensuring the Future is Made in All of America by All of America's Workers,* launching a whole-of-Government initiative to strengthen the use of Federal procurement to support American manufacturing. With over $600 billion in annual procurement spending, almost half of which is in manufactured products from helicopter blades to trucks to office furniture, the Federal Government is a major buyer in a number of markets for goods and services and the single largest purchaser of consumer goods in the world. Leveraging that purchasing power to shape markets and accelerate innovation is a key part of the Administration's industrial strategy (*https://www.atlanticcouncil.org/commentary/transcript/brian-deese-on-bidens-vision-for-a-twenty-first-century-american-industrial-strategy/*) to grow the

industries of the future to support U.S. workers, communities, and firms.

On July 30, 2021, DoD, GSA, and NASA published a proposed rule at 86 FR 40980 to implement section 8 of E.O. 14005, which directs the Federal Acquisition Regulatory Council (FAR Council) to strengthen the impact of Federal procurement preferences in the Buy American statute for products and construction materials that are domestically manufactured from substantially all domestic content. Consistent with section 8, the proposed changes to the implementation of the Buy American statute were designed to support greater domestic production of products critical to our national and economic security and help ensure America's workers thrive. This final rule makes limited changes from the proposed rule and amends the FAR to implement—

- A near-term increase to the domestic content threshold following a short grace period during which contractors and the workforce prepare for the increase and a schedule for future increases;
- A fallback threshold that would allow for products meeting a specific lower domestic content threshold to qualify as domestic products under certain circumstances; and
- A framework for application of an enhanced evaluation factor (price preference) for a domestic product that is considered a critical item or made up of critical components.

A. Increase to the Domestic Content Threshold

This rule increases the domestic content threshold initially from 55 percent to 60 percent, then to 65 percent in calendar year 2024 and to 75 percent in calendar year 2029. See FAR 25.101(a)(2)(i) and 25.201(b)(2)(i). The initial increase to 60 percent will occur several months from publication of the final rule, to allow industry time to plan for the new threshold and to provide workforce training on the new fallback threshold.

The increase of the domestic content threshold ultimately to 75 percent is consistent with the Infrastructure Investment and Jobs Act (Pub. L. 117–58) (IIJA) which was enacted on November 15, 2021. Section 70921 of this statute includes a ''sense of Congress'' that the FAR be amended to increase the domestic content requirements for domestic end products and domestic construction material to 75 percent.

A supplier that is awarded a contract with a period of performance that spans the schedule of domestic content threshold increases will be required to comply with each increased threshold for the items in the year of delivery. For example, a supplier awarded a five-year contract in 2027 will have to comply with the 65 percent domestic content threshold initially, but in 2030 will have to supply products with 75 percent domestic content. However, in response to comments received, in instances where this requirement to comply with changing domestic content thresholds throughout its life would not be feasible for a particular contract, the rule at FAR 25.101(d) and 25.201(c) provides for a senior procurement executive to allow the application of an alternate domestic content test in defining ''domestic end product'' or ''domestic construction material'' after consultation with Office of Management and Budget's Made in America Office (MIAO). The alternate domestic content test would allow the supplier to comply with the domestic content threshold that applies at the time of contract award, for the entire period of performance for that contract. The MIAO will work with the agencies to develop an appropriate process for consultation.

B. Fallback Threshold

This rule also allows, until one year after the increase of the domestic content threshold to 75 percent, for the use of the 55 percent domestic content threshold (*i.e.,* the threshold in effect prior to the effective date of this rule) in instances where an agency has determined that there are no end products or construction materials that meet the new domestic content threshold or such products are of unreasonable cost. See FAR 25.106(b)(2) and (c)(2), and 25.204(b)(1)(ii) and (b)(2). For example, if a domestic end product that exceeds the 60 percent domestic content threshold is determined to be of unreasonable cost after application of the price preference, then for evaluation purposes the Government will treat an end product that is manufactured in the United States and exceeds 55 percent domestic content, but not 60 percent domestic content, as a domestic end product. The fallback threshold requires offerors to indicate which of their foreign end products exceed 55 percent domestic content. The fallback threshold only applies to construction material that does not consist wholly or predominantly of iron or steel or a combination of both and that are not commercially available off-the-shelf (COTS) items, as well as to end products that do not consist wholly or predominantly of iron or steel or a combination of both and that are not COTS items.

Section 70921 of the IIJA also envisions use of a fallback threshold, and suggests that the threshold should be set at 60 percent and continue indefinitely, but does not mandate this approach; it is simply offered as a ''sense of Congress''.

This rule retains the approach to the fallback threshold set forth in the proposed rule: A consistent 55 percent threshold that is available until 2030 for use where domestic products at a higher threshold are not available or the cost to acquire them would be unreasonable. DoD, GSA, and NASA find this approach achieves the best balance between giving small disadvantaged businesses and other market participants a reasonable chance to adjust their supply chains to meet the higher content requirements and rewarding entities who lead their industries in adopting higher content levels. Equally important, sunsetting the fallback will send a clear signal to the Federal marketplace that the Federal Government is fully committed to suppliers who increase their reliance on domestic supply chains. Other Administration efforts to strengthen our economic and national security will support this transition to greater investment in domestic markets and make increased reliance on domestic supply chains feasible and desirable. These efforts include, among others, strategic actions by the Supply Chain Task Force pursuant to E.O. 14017 to address supply chain disruptions for critical products and components, investments in workforce training and apprenticeships by the Department of Labor to ensure workers can transition quickly and succeed in good quality jobs, and small business supports, including the creation of a manufacturing office at the Small Business Administration to help small manufacturers access Federal contracts, financing, and business development support.

C. Enhanced Price Preference for Critical Products and Critical Components

The rule provides for a framework through which higher price preferences will be applied to end products and construction material deemed to be critical or made up of critical components. A subsequent rulemaking will establish the definitive list at FAR 25.105 of critical items and critical components in the FAR, along with their associated enhanced price preference(s). When a final rule goes into place establishing the list and

preference factors at 25.105, the higher price preference for critical items or critical components shall be used.

The final rule does not include language from the proposed rule to require postaward reporting on the specific amount of domestic content in critical end products, construction material, or components receiving the enhanced price preference. Reporting remains a priority for helping the Federal Government more clearly understand the extent to which entities in its supplier base are increasing reliance on domestic sources for critical items and components. For this reason, coverage on this requirement will be deferred to the rulemaking that establishes the definitive list at FAR 25.105 of critical items and critical components so that respondents can better understand and comment on the scope and scale of reporting and have that input considered by the regulatory drafters before a requirement is finalized.

See the proposed rule for more information about the changes and about the Buy American statute (for its applicability and exceptions see 86 FR 40980 at page 40981).

Seventy respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

The following significant changes from the proposed rule are made in the final rule:

• Domestic content threshold grace period. The proposed rule envisioned an immediate increase to the domestic content threshold from 55 percent to 60 percent, with the increase to 65 percent scheduled to begin in approximately two years in calendar year 2024 and the increase to 75 percent scheduled to begin five years after that increase, in calendar year 2029. In response to the comments received to the proposed rule, the Councils have provided for a delayed effective date (*i.e.,* a grace period) before the initial increase to 60 percent occurs in the final rule. Ordinarily, rules take effect 30 days after publication of the final rule. Delaying the effective date until after the beginning of the next fiscal year will allow industry to prepare for the new domestic content threshold and give the acquisition workforce time to be trained for the new concepts contained in this rule, helping to ensure a smoother transition to the rule's new requirements. The schedule for domestic content threshold increases to 65 percent and 75 percent remains unchanged from the proposed rule and is reflected in the amendments throughout FAR part 25 and to FAR clauses 52.225–1, 52.225–3, 52.225–9, and 52.225–11.

• Use of an alternate domestic content test to apply the domestic content threshold in effect at contract award throughout the life of a contract. The proposed rule required a contract with a period of performance that spans the schedule of threshold increases to comply with each increased threshold for the items in the year of delivery. In response to the comments received to the proposed rule, the final rule adds a process by which an agency's senior procurement executive may, after consultation with the MIAO, allow for application of an alternate domestic content test. In the event use of an alternate domestic content test is authorized, the contract would require compliance with the domestic content threshold in effect at time of contract award for the entire life of the contract. Amendments are made to FAR 25.101, 25.201, 25.1101, and 25.1102 to implement the alternate domestic content test. Alternates to FAR clauses 52.225–1, 52.225–3, 52.225–9, and 52.225–11 are created for those contracts where use of an alternate domestic content test is authorized. Due to the new Alternates, conforming changes were made to FAR 13.302–5 and FAR clauses 52.212–5 and 52.213–4.

• Clarifications regarding application of the fallback threshold. As part of implementing the fallback threshold, the proposed rule would have required offerors to identify which of their foreign end products and foreign construction material met the fallback threshold. The final rule clarifies that this identification would only be required for end products and construction material where the fallback procedures are used, *i.e.,* for end products and construction material that do ''not consist wholly or predominantly of iron or steel or a combination of both'' and are not COTS items. To reflect these clarifications, the final rule makes amendments at newly-designated FAR 25.106 and 25.204; FAR provisions 52.212–3, 52.225–2, and 52.225–4; and FAR clauses 52.225–9 and 52.225–11. The proposed rule also did not contain any guidance on what the use of the fallback procedures would mean in relation to the procedures associated with exceptions to the Buy American statute, specifically the exception for nonavailability. Language has been added at FAR 25.103(b)(2)(i) and 25.202(a)(2), clarifying that a nonavailability determination is not required when the fallback procedures are used.

• Postaward reporting requirement. The proposed rule included two new clauses that would require contractors to provide the specific domestic content of critical items, domestic end products containing a critical component, and domestic construction material containing a critical component, that were awarded under a contract. The final rule removes this requirement and will instead propose this requirement in the subsequent rule establishing the list of critical items and critical components in the FAR, along with their associated enhanced price preference.

B. Analysis of Public Comments

1. Support for the Rule

Comment: Some respondents were supportive of the rule in general, though many had specific feedback—whether supportive or not—that is captured in the remaining categories of comments. One respondent was supportive of the rule as long as the Government still maintained a level of quality for the products it buys and protected against price gouging. Another respondent strongly recommends that the policy changes to the Buy American requirements closely align with U.S. national security objectives.

Response: The Councils acknowledge the respondents' support for the rule.

2. Concerns With the Rule

Comment: Some respondents expressed general concerns with the rule. These respondents did not believe the rule would impact their specific industry or entire manufacturing sector, believed the rule overcomplicates an already complicated process, or believed the Buy American statute itself and/or its existing implementation is already problematic. One respondent was concerned that the rule is too broad and that it may cause delays to acquisitions and increased pricing. One respondent believed the rule was overly burdensome and may invite protectionist policies from trading partners. A few respondents expressed concerns that the rule would have adverse results such as higher proposal prices and a reduction in the competitiveness of U.S. companies.

Response: The Councils acknowledge the respondents' general concerns with the rule. The Councils address respondents' feedback on specific aspects of the rule in the following categories of comments.

3. Domestic Content Threshold

Comment: Many respondents provided comments on the aspect of the rule that proposed increases to the domestic content threshold:

Approximately half the respondents supported increasing the domestic content threshold over time, as proposed. One of these supported increasing the threshold only if the exception to the Buy American statute under the Trade Agreements Act remains. A couple of these respondents encouraged increasing the domestic content threshold to 75 percent earlier than the proposed date of 2029 (*i.e.,* earlier than the proposed 7 years after the initial increase to 60 percent). The other half were not supportive of increasing the domestic content threshold over time.

The majority of the respondents that were not supportive urged that the increases to the domestic content threshold happen over a longer period of time than proposed, as domestic suppliers cannot currently meet the higher thresholds and manufacturers would need more time to secure adequate domestic suppliers and make the requisite changes to their supply chains. According to one respondent, failure to provide industry the appropriate amount of preparation time to comply with the higher domestic content thresholds could result in ''material shortages, delayed deliveries, overextended suppliers, and inflationary pricing.'' One of these respondents specifically recommended that the increases to the domestic content threshold happen in 3 to 5 year intervals, and another respondent asked that the increase occur over a 10-year span instead of 7 years, but the others did not provide specific alternate timeframes for consideration.

Many of these respondents expressed concerns with possible unintended consequences of increasing the domestic content threshold to the amounts and along the timeline proposed. One concern is that the higher thresholds will cause increased costs for compliance, which will reduce the number of businesses that participate in the Federal marketplace, especially small businesses, thereby limiting the availability of domestic products and the competitiveness of innovative commercial products offered to the Federal Government. Another concern is that the imposition of higher domestic content thresholds will invite similar retaliatory actions from trading partners, which would limit U.S. businesses' access to the global government procurement market. Some of the respondents expressed concerns specific to those U.S. businesses who maintain a global supply chain and/or those that participate both in the commercial marketplace and the Federal marketplace. According to these respondents, complying with the higher domestic content thresholds for the Federal market would cause these businesses to consider restructuring operations, including their supply chains, to separate commercial sales from Government sales. These respondents predict that such a separation would occur because the commercial market does not have similar requirements for domestic content and would not support the higher prices that would flow from compliance with such requirements. A couple of respondents also pointed out that instead of complying with the higher domestic content requirements, businesses could find it more beneficial to reduce their current level of domestic content in order to reduce their cost enough to make their foreign end product competitive even after application of the price preference provided by the Buy American statute to domestic products.

A number of these respondents stated that the increased domestic content thresholds would be difficult, if not impossible, to comply with because of a shortage of available domestic components and subcomponents.

A couple of the respondents believed that the higher domestic content thresholds would not promote U.S. manufacturing and would not accomplish the Administration's stated objective. One of those respondents urged an adoption of the ''substantial transformation'' standard instead of the use of a component test.

Response: The Councils believe that the concerns raised regarding the level and schedule for threshold increases are largely addressed by the fallback threshold, which recognizes that some market participants, especially socioeconomic small businesses from underserved communities and other small businesses, may need additional time beyond what is provided in the schedule to make adjustments to their supply chains. Those contractors that are not ready or otherwise make a business decision not to modify their supply chains will still be able to bid on Federal contracts and could still enjoy a price preference if their end product meets the current definition of domestic end product (*i.e.,* exceeding 55 percent domestic content). In the event that the Government does not receive any offers of domestic end products or the domestic end products are of unreasonable cost, the Government will treat the end products that have at least 55 percent domestic content as a domestic end product for evaluation purposes. See Section I.B. Fallback Threshold, earlier in this preamble. This approach will help prevent scheduled increases in the content threshold from taking work away from domestic suppliers who are actively adjusting their supply chains and avoid unintentionally raising the foreign content of Federal purchases through increased use of waivers. As more companies come into compliance with the higher thresholds over time, there will be a more competitive environment to sustain fair and reasonable pricing for products with higher domestic content. For these reasons, the final rule reflects the same threshold increases and schedule for those increases as the proposed rule. However, the Councils have decided to delay the effective date of the rule, which would delay implementation of the initial increase of the domestic content threshold to 60 percent by several months. This short grace period is expected to allow more time for industry to prepare for the increased domestic content threshold.

Comment: Some of the respondents expressed concerns with the aspect of the proposed rule which required that a supplier holding a contract with a period of performance that spans the schedule of domestic content threshold increases will be required to comply with each increased threshold for the items in the year of delivery. These respondents specifically called out indefinite-delivery, indefinite-quantity (IDIQ) contracts and fixed-price contracts as being adversely affected by such a requirement. A couple of these respondents explained that requiring a contract to comply with changing domestic content thresholds during the contract period of performance presents an administrative burden on contractors to track compliance through lower tiers, considering subcontractors and suppliers, as well as creating an administrative burden on both the Government and contractors in terms of having to renegotiate and modify the existing contracts to reflect the changing requirements. Another respondent believed that such a requirement placed an unreasonable burden on companies bidding on fixed-price contracts because these companies would need to identify

a supply chain that meets the highest domestic content requirement and price that out for its proposal although the highest requirement might be several years away. These respondents recommended that a contractor only be required to comply with a single domestic content threshold—the one in effect at award—throughout the performance period of a contract.

Response: In light of the points raised by the public with regard to this requirement, the Councils acknowledge there are some instances where it is not feasible to require a contract that is subject to the Buy American statute to meet changing domestic content thresholds throughout its period of performance. In recognition of such instances, the final rule creates a process whereby an agency senior procurement executive, after consultation with the MIAO, may allow for application of an alternate domestic content test to the definition of ''domestic construction material'' and ''domestic end product'' and require the contractor to comply only with the domestic content threshold that is in effect at contract award for the entire contract term.

Comment: One respondent asked for clarification regarding the applicability of the changes in the proposed rule to existing IDIQ contracts and other multi-year contracts. Specifically, the respondent asked whether the new requirements would apply to delivery orders issued after the effective date of this final rule against IDIQ contracts awarded prior to the effective date of this final rule. The respondent stated that because applying the new requirements would impact pricing for the IDIQ contractors, they recommend that orders include a price adjustments clause that would allow both agencies and contractors to deal with any price increases stemming from changing the domestic content requirements.

Response: In accordance with the convention stated at FAR 1.108(d), FAR changes apply to existing contracts at the discretion of contracting officers, unless otherwise specified. This final rule does not otherwise specify a different application of the FAR change to existing contracts than the convention.

4. Fallback Threshold

Comment: A few respondents provided comments on the aspect of the rule that created the concept of a fallback threshold. Most of those comments were supportive. A couple of the respondents further recommended keeping the fallback threshold beyond the proposed one-year period after the last increase of the domestic content threshold. One of these respondents believed that companies would need more than one year to comply with the 75 percent domestic content threshold while the other respondent believed that the fallback threshold should be used on an as-needed basis in the future to account for ''periods of economic difficulty or increased input prices.'' A few of these respondents recommended that the fallback threshold increase over time to match the increases to the domestic content threshold, *i.e.* fallback threshold increases from 55 percent to 60 percent in 2024, and to 65 percent in 2029.

One of the respondents stated that while the fallback threshold allows time for companies to comply with the changing domestic content thresholds, it does not address the cost of the changes, such as those associated with engineering, vendor qualification, first article inspections, testing and fixturing, etc. The respondent recommended lower domestic content thresholds instead of a fallback threshold. With regard to the recommendation for increasing the fallback threshold over time to match the increases to the domestic content threshold, the respondent acknowledged that having multiple transitional thresholds and fallbacks would add complexity towards administration, supplier coordination, and associated reporting. Another respondent stated that the fallback threshold would not incentivize contractors because it does not address the issue of disparate product costs between the U.S. and lower-cost countries. Instead, this respondent recommended replacing the fallback threshold with a tiered system of price preferences, starting from a price preference to those contractors who have less than 35 percent domestic content and then scaling up to the highest tier of price preferences for those who have more than 90 percent domestic content.

Response: Based on the predominantly supportive public comments for a fallback threshold, the congressional support for use of a fallback that is articulated in the sense of Congress in section 70921 of the IIJA, and the important role a fallback will play in giving small businesses and other market participants time to make adjustments to their supply chains, the Councils have retained in the final rule the concept and procedures for the fallback threshold from the proposed rule. The Councils believe the fallback threshold, as set forth in the proposed rule, should: (1) Help prevent scheduled increases in the content threshold from taking work away from domestic suppliers who are actively adjusting their supply chains; and (2) avoid unintentionally raising the foreign content of Federal purchases through increased use of waivers while domestic suppliers adjust. With regard to the recommendation that the fallback threshold increase over time to match the increases to the domestic content threshold, the Councils have determined that an increasing fallback threshold could, by adding complexity to the rule's provisions, make firms' efforts in supply chain coordination, solicitation certifications, and contract administration more difficult, rather than less. That said, the fallback threshold will be a temporary measure designed to limit foreign content while contractors transition to U.S.-based supply chains.

5. Framework for Enhanced Price Preference for Critical Items and Critical Components

Comment: Several respondents provided comments on the aspect of the rule that proposed a framework for providing enhanced price preferences for a domestic product that is considered a critical item or made up of critical components.

About half of the respondents were supportive of the framework and concept. Many of these respondents recommended specific items or categories of items be added to the eventual FAR list of critical items and critical components: Hull, mechanical and electrical vessel components and systems, including engines and propulsion components; personal protective equipment; essential medicines; ammonium perchlorate and sodium perchlorate; tantalum and niobium; tungsten; titanium and superalloys; rare earths and material; and steel. One respondent recommended that the enhanced price preference be 25 percent for large businesses and 35 percent for small businesses, an addition of 5 percentage points to the current price preference provided in the FAR for acquisitions subject to the Buy American statute. One respondent was supportive of the concept as long as the exception to the Buy American statute under the Trade Agreements Act remains. Another respondent recommended that critical items and critical components be excluded from the United States' trade obligations. That respondent also urged a ''whole of Government'' approach to the designation of items on the critical list, pointing out that E.O. 14005 requires a review and update of the list of domestically nonavailable articles at

FAR section 25.104, which the respondent believes contains many items that are the ''focus of the initiatives to strengthen U.S. supply chains and sources of critical inputs.''

A few respondents expressed concerns with the concept of providing enhanced price preference for critical items and components. Some of the respondents stated that it was premature to create a framework and difficult to comment on the framework and evaluate its effect until the list of critical items and components, and their associated enhanced price preferences, are known. A few of the respondents believed that the concept seems to add administrative burden in terms of time and effort needed to track enhanced preferences, additional compliance costs for the U.S. Government and the Federal acquisition supply chain, and create unintended consequences. As alternatives to the concept, these respondents recommend instead providing contracting officers the ability to identify specific products or categories that will receive additional price preferences and then tailor their solicitation; or pursuing other public policies that would attempt to enhance domestic manufacturing by increasing access to highly-skilled affordable workforce, simplifying government regulations, or lowering the cost of raw materials and energy. As examples of such policies, respondents cited incentives like research and development investment credits, tax breaks, loans, subsidies, etc.

A couple of respondents pointed out that providing enhanced price preferences would have limited benefit when there is only one supplier of a critical item; however, one of the respondents acknowledged that the enhanced price preference could be beneficial in encouraging domestic investment for critical items that are primarily imported. One respondent commented that identifying critical components would be difficult for design-build construction contracts and recommended exempting those types of contracts from this concept. Another respondent appeared to instead recommend that ''electronic connectors, harness associated with the assembly, and cabling'' be identified as items for the critical list. Another comment from this respondent was that any implementation of an enhanced price preference should be limited to the most critical and sensitive items; mandating a price preference could lead to the U.S. losing access to a superior product developed and produced by an ally. That respondent suggested that creating a ''critical list'' of items must include confirmation that a domestic supply is and will be available.

One respondent, with regard to the proposed requirement for offerors to identify when a proposed end product contains a critical component, commented that the establishment of a separate representation process can create administrative burden and cost for vendors, as associated compliance mechanisms will be required to assure the accuracy of such separate representations. It was not clear to this respondent what benefit is achieved with the creation of this process, or whether any associated cost implications have been assessed. Another respondent commented that contractors are unable to comply with the ''reporting requirements,'' appearing to refer to the reporting requirement associated with identifying which offered item contains a critical component.

Response: The Councils are retaining in the final rule the framework for enhanced price preference for critical items and critical components as contained in the proposed rule. The various recommendations for items/components to be deemed critical will be shared with the appropriate parties that will make such decisions.

The Councils note that the public will have another opportunity to provide feedback on this framework, and any associated reporting requirement(s), in the subsequent rulemaking that will establish the list of critical items and critical components in the FAR, along with their associated enhanced price preference. That separate FAR rule will present more context for the public to provide more informed feedback on the subject.

Comment: As requested in the preamble of the proposed rule, a few of the respondents provided feedback on the process for identifying items and components for the critical list, the frequency of adjustments to the critical list, and how to apply the enhanced price preferences.

Response: As stated in the proposed rule, establishing a list of critical items and critical components, along with their associated enhanced price preference, will be determined in a separate FAR rulemaking. The feedback provided by these respondents will be considered in the development of that separate/forthcoming FAR proposed rule.

6. Postaward Reporting Requirement

Comment: Several respondents provided comments on the aspect of the rule that proposed a requirement for postaward reporting on critical items and items containing critical components.

A few respondents were supportive of the requirement. One respondent believed they could easily comply given that they have 100% domestic content but urged that the reporting requirement be designed in a way to be least burdensome on small businesses—for example, by making the reporting period no sooner than one year instead of 15 days. Another respondent stated that reporting is an effective way of ensuring greater compliance with the Buy American statute since transparency is a component of enforcement; this respondent further recommended that the reports be made public. One respondent, while supportive of the requirement as a first step, believed that it is too narrow in scope and that data related to contract adherence to the existing Buy American statute is inadequate. A couple of the respondents stated that reporting requirements associated with the Buy American statute already have very low difficulty of compliance, and it is unlikely that the proposed changes will significantly increase that burden on any businesses, small and disadvantaged or otherwise. One of these respondents recommended better transparency and public reporting be coupled with efforts to engage unions and shop floor workers in monitoring compliance with the Buy American statute. The respondent encouraged agencies to share information with unions, including compliance reports and the contracting agency's expectations about where contract work, including the supply chain for manufactured supplies on Federal contracts, is being performed.

A majority of the respondents that commented on the postaward reporting requirement expressed concern with the requirement. A number of the respondents stated that the full impact of the reporting requirement could not be known without first knowing how and what products and components will be listed as critical. One respondent provided an example that the burden of the requirement could be great if it turned out that there are ''many critical components within various end items'' or ''there are many end products that contain a critical component''; the respondent also pointed out that the 15-day reporting period could limit competition where contractors are furnishing end products with a lead time outside of the proposed reporting requirement. Another respondent urged the Councils to provide industry an opportunity to provide feedback on the proposed 15-day timeframe for reporting

once the list of critical items and components is established, because without knowing the scope and scale of the list, contractors will not know if that timeframe is feasible.

Some of the respondents requested further clarity on the proposed requirement. One of the respondents asked what defines a critical item and what to do about reporting on contract ''obsolete items'' or when the critical item list changes. Another respondent requested the Government clarify the ''types, detail, and level of reporting.'' Another respondent asked whether a contractor's ultimate inability to deliver a product with the domestic content amount specified in the report would be considered a breach of contract.

Some of the respondents stated that the postaward reporting requirement would increase administrative burden and cost to contractors. One of these respondents specifically recommended that COTS products not be subject to the reporting requirement because it would result in a great deal of time and money spent. A couple of the respondents commented on potential negative impacts of the requirement. One of the respondents stated that increased reporting requirements, which flow down to subtiers, would make it more difficult for them to work with small businesses. The respondent explained that the reporting requirement would negatively impact small businesses because they would have to absorb the cost of validating the domestic content of all their components up front. This respondent also stated that the requirement would present a barrier to entry for many prospective suppliers. Another respondent stated that the requirement could limit competition where a contractor is furnishing an end product with a lead time that is outside the proposed reporting timeframe of 15 days. This respondent stated that limited competition will also be likely due to the additional compliance costs and risks. According to this respondent, the requirement could result in increased prices from the Federal contracting community, which in turn could put them at a disadvantage with competitors in other markets, such as commercial markets.

A few of the respondents pointed out the difficulty of obtaining country-of-origin information for components from their suppliers, who are either unwilling or unable to provide the necessary information.

A few of the respondents expressed concerns over the security of the required information. One of these respondents worried about forcing equipment manufacturers to reveal potentially sensitive information about equipment manufacturing processes to the public, which could then be accessed by domestic and foreign competitors. A couple of the respondents also believed the required information is sensitive and critical, and that industry needs assurances that the information will be protected and secured. The respondents pointed out existing concerns about supply chain vulnerabilities, and that would-be adversaries as well as other contractors will want this competition-sensitive information. One of the respondents urged the Government to consider the relative sensitivity and security of the reported data and implement a plan to appropriately protect and secure it, possibly by imposing restrictions on public access to supply chain/component data. This respondent stated that making the reported data accessible to the public could harm competition and create security concerns by forcing contractors to reveal key elements of a solution.

Some of the respondents offered up alternatives to the proposed postaward reporting requirement. A couple of the respondents proposed alternatives to aspects of the proposed requirement, such as a longer timeframe for reporting than the proposed 15 days or simplification of the reporting lines (*i.e.* instead of having the pre-award certifications going to the contracting officer and the postaward reporting going to the MIAO). A few of the respondents proposed that instead of creating the reporting requirement, the Government should find other ways to accomplish its objective of gaining insight. One of the respondents recommended tailoring the Federal Procurement Data System (FPDS) and incentivizing contractors through something like a ''Buy American certificate'' into voluntarily providing the required data. Another respondent recommended leveraging or mirroring and modifying the Federal Trade Commission's ''Made in the USA'' framework to implement domestic sourcing policies for Federal procurements. This respondent recommended that the MIAO establish a web portal or repository to enable a supplier that claims its product is ''Made in the USA'' to voluntarily register their product claim.

One of the respondents wanted an exception for design-build construction contracts, stating that the reporting requirement would be impractical for such a contract. Another respondent believed the reporting requirement would be difficult for contractors to meet if the reporting pertained to domestic content of components rather than the end item. One respondent proposed a system that they had created as the method for providing transparency into supply chains. One respondent commented that contractors are unable to comply with the ''reporting requirements.''

Response: Reporting remains a priority because it will help the Federal Government more clearly understand the extent to which entities in its supplier base are increasing reliance on domestic sources for critical items and components. However, in light of the questions and concerns raised by the public in the absence of information, including a specific list of critical items and components, sufficient to convey the scope and scale of reporting that would be required, the Councils have determined to remove the requirement from this rule. Instead, the postaward reporting requirement will be included in the subsequent rulemaking planned for establishing the list of critical items and critical components in the FAR, along with their associated enhanced price preference. It is expected that when provided the context of an actual list of critical items and critical components, the public can provide more informed input for consideration by MIAO, Office of Federal Procurement Policy (OFPP), and other policy offices on how best to shape the reporting requirements.

7. Comments on Other Topic Areas of E.O. 14005

Comment: A majority of the 70 respondents commented on topics that were highlighted in the preamble of the proposed rule as topics that pertain to other sections of E.O. 14005 than the one that is specifically being addressed in this particular FAR rule and on which public feedback was sought. These topics consisted of the commercial information technology acquisition exemption from the Buy American statute; the partial waiver for COTS items; Made in America services; the role of trade agreements; the use of waivers to the Buy American statute in general; the effectiveness of current price preferences under the Buy American statute; and replacing the component test.

Response: The Councils appreciate the comments offered in response to the questions posed to help the FAR Council, MIAO, and other interested Federal offices understand the public's views on important issues affecting Made in America policy beyond the actions addressed in this rulemaking. While no action is being taken in this FAR case with regard to the feedback

received on those areas, the FAR Council and the MIAO intend to consider the feedback received in those topic areas for other activities required by the E.O., as well as related initiatives to strengthen domestic supply chains.

8. Outside the Scope of This Rule and Other Activities Under E.O. 14005

Comment: Several respondents submitted comments that did not address any aspect of this rule or any other action by the FAR Council that is contemplated under E.O. 14005. These comments included complaints about the existing Buy American statute, existing FAR implementation of the Buy American statute, and specific procurement actions; recommendations for FAR changes that go beyond what is required by E.O. 14005 or authorized by any statute; marketing campaigns; and recommendations for non-procurement actions to incentivize domestic production.

Response: The respondents' comments are outside the scope of this FAR rule and are not necessary for implementation of section 8 of E.O. 14005.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items) or for Commercial Services

This rule amends the provisions and clauses at FAR—

- 52.212–3, Offeror Representations and Certifications—Commercial Products and Commercial Services;
- 52.213–4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services);
- 52.225–1, Buy American—Supplies;
- 52.225–2, Buy American Certificate;
- 52.225–3, Buy American—Free Trade Agreements—Israeli Trade Act;
- 52.225–4, Buy American—Free Trade Agreements—Israeli Trade Act Certificate;
- 52.225–9, Buy American—Construction Materials; and
- 52.225–11, Buy American—Construction Materials Under Trade Agreements.

Those provisions and clauses continue to apply, or not apply, to acquisitions at or below the SAT, to acquisitions for commercial products (including COTS items), and to acquisitions of commercial services as they did prior to this rule.

This rule creates alternates for the clauses at FAR—

- 52.225–1, Buy American—Supplies;
- 52.225–3, Buy American—Free Trade Agreements—Israeli Trade Act;
- 52.225–9, Buy American—Construction Materials; and
- 52.225–11, Buy American—Construction Materials Under Trade Agreements.

These alternates continue to apply, or not apply, to acquisitions at or below the SAT, to acquisitions for commercial products (including COTS items), and to acquisitions of commercial services, as their basic clauses did prior to this rule.

IV. Expected Impact of the Rule

This rule adds two sets of changes to the FAR's implementation of the Buy American statute:

- An increase to the domestic content threshold that a product must meet to be defined as ''domestic''; a schedule for future increases (see FAR 25.101(a)(2)(i) and 25.201(b)(2)(i)); and a fallback threshold that would allow products meeting a specific lower domestic content threshold to qualify as a domestic product under certain circumstances (see FAR 25.106(b)(2) and (c)(2), and 25.204(b)(1)(ii) and (b)(2)); and
- A framework for application of an enhanced price preference for a domestic product that is considered a critical product or made up of critical components (see FAR 25.106(c) and 25.204(b)(2)).

The impact of each set of changes is addressed individually below. DoD, GSA, and NASA sought information from the public to assist with this analysis. Feedback from the public was used to help further inform the regulatory drafters in the formation of this final rule.

A. Scheduled Increase to the Domestic Content Threshold and the Use of a Fallback Threshold

The fundamental goal of the rule is to increase the share of American-made content in a domestic end product or construction material. The graduated increase, after a grace period before the initial increase, is intended to drive to this goal in a proactive but measured fashion so that contractors have adequate time to make adjustments in their supply chains. When this rule is implemented, domestic industries supplying domestic end products are likely to benefit from a competitive advantage.

Federal Procurement Data System (FPDS) data for fiscal year 2020 indicate there were 121,063 new contract awards for products and construction, valued over the micro-purchase threshold through the threshold at which the World Trade Organization Government Procurement Agreement applies, to which the Buy American statute applied. It is estimated that 37,503 of these awards were for COTS items. Because the domestic content threshold test does not apply to COTS items (except those involving iron/steel), those awards were subtracted from the 121,063 total eligible awards. After removing potential COTS item acquisitions from the data, there are estimated to be 83,560 contract awards to 14,163 unique contractors.

It is unclear if the pool of qualified suppliers would be reduced, resulting in less competition (and a possible increase in prices that the Government will pay to procure these products). The fallback threshold is intended to: (1) Help prevent scheduled increases in the content threshold from taking work away from domestic suppliers who are actively adjusting their supply chains; and (2) avoid unintentionally raising the foreign content of Federal purchases through increased use of waivers while domestic suppliers adjust. The fallback threshold will be a temporary measure designed to limit foreign content while contractors transition to U.S.-based supply chains.

Based on responses received to the questions posed to the public, the FAR Council has considered implementing smaller increases in the content threshold as well as differently timed increases in the final rule, but determined that the size and schedule of the increases put forth in the proposed rule (*i.e.,* initial increase to 60 percent, then increase to 65 percent in 2024, and then increase to 75 percent five years after the previous increase) reflect a reasonable approach to achieving the goals of section 8 of E.O. 14005 and increasing reliance on domestic supply chains.

This determination was based on considerations such as potential impact on competition; potential impact on supplier diversity, including participation of small disadvantaged businesses and businesses in other underserved communities; lost opportunities for American workers; and other factors identified by public comment and other interested parties, including MIAO, which also has been considering the potential impact of the proposed rule. The Councils also considered the procurement provisions at issue and the sense of Congress expressed in the IIJA.

At least three arguments point to the possibility that any increased burden with regard to the timed increase to the domestic content threshold, on contractors in particular, could be small if not de minimis.

First, DoD, GSA, and NASA do not anticipate significant cost arising from contractor familiarization with the rule given the history of rulemaking and E.O.s in this area. The basic mechanics of the Buy American statute (*e.g.,* general definitions, certifications required of offerors to demonstrate end products are domestic) remain unchanged and continue to reflect processes that have been in place for decades. Under the proposed rule, when deciding whether to pursue a procurement or what kind of product mix (*i.e.,* domestic or foreign) and pricing to propose in response to a solicitation, offerors now will have to plan for future changes to the domestic content threshold during the period of performance of the contemplated contract, unless use of an alternate domestic content threshold, which is the threshold in effect at time of contract award, has been authorized. Those offerors that make a business decision not to modify their supply chains over time to comply with the scheduled increases to the domestic content threshold will still be able to propose an offer for Federal contracts but will generally no longer enjoy a price preference.

Second, some, if not many, contractors may already be able to comply with the higher domestic content requirement needed to meet the definition of domestic end product under E.O. 14005 and the final rule. Laws such as the SECURE Technology Act, Public Law 115–390, which requires a series of actions to strengthen the Federal infrastructure for managing supply chain risks, are placing significantly increased emphasis on the need for Federal agencies and Federal Government contractors to identify and reduce risk in their supply chains. One way to reduce supply chain risk is to increase domestic sourcing of content. A U.S. Bureau of Economic Analysis study using 2015 data, *https://www.commerce.gov/sites/default/files/migrated/reports/2015-what-is-made-in-america_0.pdf,* found that on average, 82 percent of the value of U.S. manufacturing output consists of domestic content. This indicates that a domestic content threshold of 60 percent would not inflict additional burden on many contractors. Based on the assumption that the products purchased in 2021 will be similar to the products procured in the future, a preliminary analysis of available data in FPDS on the impact of an increase early in 2021 in the domestic content threshold from 50 percent to 55 percent did not reveal an uptick in waivers, suggesting companies may already be incorporating content that can meet at least the 55 percent level:

	Feb–Dec 2021	Feb–Dec 2020	Feb–Dec 2019	Feb–Dec 2018
	Total spend (millions of $)	Total spend (millions of $)	Total spend (millions of $)	Total spend (millions of $)
Total	$36,137	$40,120	$40,948	$44,517
Buy American Waived *	$161	$177	$155	$166
Percent Waived	0.44%	0.44%	0.38%	0.37%

* Waivers included here are Commercial Information Technology, Domestic Non-availability, Public Interest Determination, Resale, or Unreasonable Cost. They do not include waivers due to trade agreements or DoD qualifying country, which would not be impacted by a change in the content threshold.

Third, it is anticipated that some contractors' products and construction materials may not meet the definition of domestic end product and construction material unless the contractors take steps to adjust their supply chains to increase the domestic content. Those contractors that make a business decision not to modify their supply chains will still be able to bid on Federal contracts and could still enjoy a price preference if their end product meets the prior definition of domestic end product (*i.e.,* exceeding 55 percent). In the event that the Government does not receive any offers of domestic end products or the domestic end products are of unreasonable cost, the Government will treat the end products that have at least 55 percent domestic content as a domestic end product for evaluation purposes. Offerors now have an information collection burden of identifying when a foreign end product meets the fallback threshold (see section VIII of this preamble), but that burden should be offset by the benefit of potentially still receiving a price preference for those end products that would have been considered domestic prior to the increases to the domestic content threshold implemented in this rule.

Offerors have an option to increase their reliance on domestic content and continue to offer domestic products, in which case they may benefit from the price preference for domestic products, or they may continue to offer the same product, which will now be evaluated as foreign but may still benefit from a price preference. DoD, GSA, and NASA do not have any data on how many currently domestic products would fall into this category or have any knowledge as to which option an offeror of such products would select, since this is a business decision for each offeror to make.

In recognition of the feedback provided by the public, DoD, GSA, and NASA have decided to delay the effective date of this rule by several months. The expectation is that this grace period will allow the contracting community more time to plan for the new threshold and prepare for the new procedures. Coupled with the implementation of the fallback threshold, the grace period should help to minimize any increased burden associated with the higher domestic content thresholds.

B. Enhanced Price Preference for Critical Items

The goal of the enhanced price preference for critical items and components is to provide a steady source of demand for domestically produced critical products. As explained above, the rule only creates a framework. A separate rulemaking will be undertaken to add critical products and components to the FAR and to establish the associated preferences. Therefore, the impact associated with this concept will be captured in the subsequent rulemaking.

There is an information collection burden associated with offerors identifying when a domestic end product or domestic construction material contains a critical component (see section VIII of this preamble), but that burden should be offset by the larger price preference received for these items.

Therefore, based on public comments received, DoD, GSA, and NASA have concluded that the initial assessment is correct that the cost impact of this rule is not significant, and any impact is predominantly positive.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD, GSA, and NASA will send the rule and the ''Submission of Federal Rules Under the Congressional Review Act'' form to each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget has determined that this is not a major rule under 5 U.S.C. 804.

VII. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601–612. The FRFA is summarized as follows:

DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement an Executive Order regarding ensuring the future is made in all of America by all of America's workers.

The objective of this rule is to strengthen domestic preferences under the Buy American statute, as required by section 8 of E.O. 14005, Ensuring the Future is Made in All of America by All of America's Workers, by providing—

- An increase to the domestic content threshold required to be met for a product to be defined as ''domestic'' and a schedule for future increases;
- A fallback threshold which would allow for products meeting a specific lower domestic content threshold to qualify as a domestic product under certain circumstances; and
- A framework for application of an enhanced price preference for a domestic product that is considered a critical product or made up of critical components.

One respondent commented that they disagreed with the statement in the Initial Regulatory Flexibility Analysis (IRFA) that the rule will not have significant economic impact on a substantial number of small entities. The respondent believed the public burden of information collection created by the proposed reporting requirements was significantly more than what the IRFA estimated. Specifically, the respondent believed the aspect of the rule which increases the domestic content threshold over time will impact contractors more than that stated in the IRFA as the estimated time required for compliance.

Since no data were provided by the respondent with regard to the estimated burden for the various information collection requirements created by this rule, the estimate was not revised. However, the final rule does remove the postaward reporting requirement so estimates related to that have been removed from this final regulatory flexibility analysis.

With regard to the comment that the IRFA did not account for the additional compliance efforts that small businesses will need to apply for the increases to the domestic content threshold over time, this final regulatory flexibility analysis acknowledges that impact.

Different parts of the rule are expected to apply to a different number and universe of small entities. The impacted small entities, by portion of the rule, are described below. But in general, the rule will apply to contracts subject to the Buy American statute. The statute does not apply to services, or overseas, nor does it apply to acquisitions of micro-purchases (contracts at or below $10,000) or to acquisitions to which certain trade agreements apply (*e.g.* World Trade Organization Government Procurement Agreement (WTO GPA)). The maximum possible number of small entities to which the rule will apply are the 31,103 active small business registrants in the System for Award Management (SAM) who do not provide services.

—Timed increase to the domestic content threshold and allowance of a fallback threshold. Federal Procurement Data System (FPDS) data for fiscal year 2020 indicates there were 86,490 new contract awards to small business for products and construction materials, valued over the micro-purchase threshold through the threshold at which the WTO GPA applies, to which the Buy American statute applied. It is estimated that 24,459 of these awards were for commercially available off-the-shelf (COTS) items. Because the domestic content threshold test does not apply to COTS items (except those involving iron/steel), those awards were subtracted from the 86,490 total eligible awards. After removing potential COTS item acquisitions from the data, there are estimated to be 62,031 contract awards to 11,704 unique small businesses. In recognition of the feedback provided by the public, DoD, GSA, and NASA have decided to delay the effective date of this rule by several months. The expectation is that this grace period will allow the contracting community more time to acclimate to the new threshold and prepare for the new procedures. Coupled with the implementation of the fallback threshold, the grace period should minimize any increased burden associated with the higher domestic content thresholds.

—Enhanced preference for a critical product or component. This rule only creates a framework. Separate rulemaking will be done to add critical products and components to the FAR and to establish the associated preferences. However, the Government assumes that 10 percent of the contract awards subject to Buy American statute will be for critical products or components. Therefore, the Government estimates that 8,649 (10 percent of 86,490) of awards to small businesses may be impacted. This translates to 1,632 unique small businesses.

The final rule will strengthen domestic preferences under the Buy American statute and provide small businesses the opportunity and incentive to deliver U.S. manufactured products from domestic suppliers. It is expected that this rule will benefit U.S. manufacturers.

This rule does not include any new recordkeeping or other compliance requirements for small businesses. Prior to this rule, small businesses already had to monitor compliance with contract requirements pertaining to the domestic content threshold for contracted items. However, the increases in the domestic content threshold implemented in this rule may result in disruption to existing contractor supply chains across impacted contracts, which in turn, may require more effort on small businesses to monitor compliance.

This rule does contain a few additional reporting requirements for certain offerors, including small businesses.

Small businesses who submit an offer for a solicitation subject to the Buy American statute already have to list the foreign end products included in their offer. This rule will require that the offeror also identify which of these foreign end products, that are not COTS items and do not consist wholly or predominantly of iron or steel or a combination of both, meet or exceed the fallback domestic content threshold. This rule will also require proposals to identify which offered domestic end products contain a critical component. Without that information, contracting officers will not be able to apply the ''enhanced price preference'' when applicable. These reporting requirements are not specific to small businesses so data does not exist to estimate the number of small businesses subject to these requirements. However, the data suggests that there will be approximately 8,800 impacted respondents total, small and other than small.

There are no known significant alternative approaches to the final rule.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501–3521) applies. The rule contains information collection requirements. OMB has provided pre-approval of the revised information collection requirements under OMB Control Number 9000–0024, Buy American, Trade Agreements, and Duty-Free Entry.

The proposed rule contained a new information collection requirement that is no longer included in this final rule. As such, the Regulatory Secretariat Division has withdrawn its request to the Office of Management and Budget for approval of a new information collection requirement concerning ''Domestic Content Reporting Requirement.''

List of Subjects in 48 CFR Parts 13, 25, and 52

Government procurement.

William F. Clark,

Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 13, 25, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 13, 25, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

■ 2. Amend section 13.302–5 by revising paragraph (d)(3)(i) and adding paragraph (d)(4) to read as follows:

13.302–5 Clauses.

* * * * *

(d) * * *

(3) * * *

(i) When an acquisition for supplies for use within the United States cannot be set aside for small business concerns and trade agreements apply (see subpart 25.4), substitute the clause at FAR 52.225–3, Buy American-Free Trade Agreements-Israeli Trade Act, used with the appropriate Alternate (see 25.1101(b)(1)), instead of the clause at FAR 52.225–1, Buy American-Supplies.

* * * * *

(4) When the senior procurement executive allows for application of an alternate domestic content test for the contract in accordance with 25.101(d), so that the initial domestic content threshold will apply to the entire period of performance, the contracting officer shall fill in the 52.213–4(b)(1)(xvii)(B) for 52.225–1 Alternate I as follows: For contracts that the contracting officer estimates will be awarded in calendar year 2022 or 2023, the contracting officer shall insert ''60'' in paragraph (1)(ii)(A) of the definition of domestic end product. For contracts that the contracting officer estimates will be awarded in calendar year 2024, 2025, 2026, 2027, or 2028, the contracting officer shall insert ''65''. For contracts that the contracting officer estimates will be awarded after calendar year 2028 the contracting officer shall insert ''75''.

PART 25—FOREIGN ACQUISITION

■ 3. Amend section 25.003 by—

■ a. Adding in alphabetical order definitions for ''Critical component'' and ''Critical item'';

■ b. In the definition ''Domestic construction material'' revising the first sentence of paragraph (1)(i)(B)(*1*); and

■ c. In the definition ''Domestic end product'' revising the first sentence of paragraph (1)(ii)(A).

The additions and revisions read as follows:

25.003 Definitions.

* * * * *

Critical component means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at 25.105.

Critical item means a domestic construction material or domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at 25.105.

* * * * *

Domestic construction material * * *

(1) * * *

(i) * * *

(B) * * *

(*1*) The cost of the components mined, produced, or manufactured in the United States exceeds 60 percent of the cost of all its components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029 (unless an alternate percentage is established for a contract in accordance with FAR 25.201(c)). * * *

* * * * *

Domestic end product * * *

(1) * * *

(ii) * * *

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 60 percent of the cost of all its components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029 (unless an alternate percentage is established for a contract in accordance with FAR 25.101(d)). * * *

* * * * *

■ 4. Amend section 25.100 by—

■ a. Removing the word ''and'' at the end of paragraph (a)(3);

■ b. Redesignating paragraph (a)(4) as (a)(5); and

■ c. Adding a new paragraph (a)(4).

The addition reads as follows:

25.100 Scope of subpart.

(a) * * *

(4) Executive Order 14005, January 25, 2021; and

* * * * *

■ 5. Amend section 25.101 by—

■ a. Removing from paragraph (a) introductory text the phrase ''Buy American statute and E.O. 13881'' and adding the phrase ''Buy American statute, E.O. 13881, and E.O. 14005'' in its place;

■ b. Revising the first sentence of paragraph (a)(2)(i); and

■ c. Adding paragraph (d).

The revision and addition read as follows:

25.101 General.

(a) * * *

(2)(i) Except for an end product that consists wholly or predominantly of iron or steel or a combination of both, the cost of domestic components shall exceed 60 percent of the cost of all the components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029. But see paragraph (d) of this section. * * *

* * * * *

(d)(1) A contract with a period of performance that spans the schedule of domestic content threshold increases specified in paragraph (a)(2)(i) of this section shall be required to comply with each increased threshold for the items in the year of delivery, unless the senior procurement executive of the contracting agency allows for application of an alternate domestic content test for that contract under which the domestic content threshold in effect at time of contract award will apply to the entire period of performance for the contract. This authority is not delegable. The senior procurement executive shall consult the Office of Management and Budget's Made in America Office before allowing the use of the alternate domestic content test.

(2) When a senior procurement executive allows for application of an

alternate domestic content test for a contract—

(i) See 25.1101(a)(1)(ii) or 25.1101(b)(1)(v) for use of the appropriate Alternate clause to reflect the domestic content threshold that will apply to the entire period of performance for that contract; and

(ii) Use the fill-in at 52.213–4(b)(1)(xvii)(B) instead of including 52.225–1 Alternate I when using 52.213–4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services).

■ 6. Amend section 25.103 by—

■ a. Adding a sentence to the end of paragraph (b)(2)(i); and

■ b. Removing from paragraph (c) ''25.105'' and ''Subpart 25.5'' and adding ''25.106'' and ''subpart 25.5'' in their places, respectively.

The addition reads as follows:

25.103 Exceptions.

* * * * *

(b) * * *

(2) * * *

(i) * * * A determination is not required before January 1, 2030, if there is an offer for a foreign end product that exceeds 55 percent domestic content (see 25.106(b)(2) and 25.106(c)(2)).

* * * * *

25.105 [Redesignated as 25.106]

■ 7. Redesignate section 25.105 as section 25.106.

■ 8. Add a new section 25.105 to read as follows:

25.105 Critical components and critical items.

(a) The following is a list of articles that have been determined to be a critical component or critical item and their respective preference factor(s).

(1)–(2) [Reserved]

(b) The list of articles and preference factors in paragraph (a) of this section will be published in the **Federal Register** for public comment no less frequently than once every 4 years. Unsolicited recommendations for deletions from this list may be submitted at any time and should provide sufficient data and rationale to permit evaluation (*see* 1.502).

(c) For determining reasonableness of cost for domestic end products that contain critical components or are critical items (*see* 25.106(c)).

■ 9. Amend newly redesignated section 25.106 by—

■ a. In paragraph (a)(1) removing the phrase ''paragraph (b) of this section'' and adding the phrase ''paragraphs (b) and (c) of this section'' in its place;

■ b. In paragraph (a)(2) removing the word ''Subpart'' and adding the word ''subpart'' in its place; and

■ c. Revising paragraphs (b) and (c).

The revisions read as follows:

25.106 Determining reasonableness of cost.

* * * * *

(b) *For end products that are not critical items and do not contain critical components.* (1)(i) If there is a domestic offer that is not the low offer, and the restrictions of the Buy American statute apply to the low offer, the contracting officer must determine the reasonableness of the cost of the domestic offer by adding to the price of the low offer, inclusive of duty—

(A) 20 percent, if the lowest domestic offer is from a large business concern; or

(B) 30 percent, if the lowest domestic offer is from a small business concern. The contracting officer must use this factor, or another factor established in agency regulations, in small business set-asides if the low offer is from a small business concern offering the product of a small business concern that is not a domestic end product (*see* subpart 19.5).

(ii) The price of the domestic offer is reasonable if it does not exceed the evaluated price of the low offer after addition of the appropriate evaluation factor in accordance with paragraph (a) or (b)(1)(i) of this section. See evaluation procedures at subpart 25.5.

(2)(i) For end products that are not COTS items and do not consist wholly or predominantly of iron or steel or a combination of both, if the procedures in paragraph (b)(1)(i) of this section result in an unreasonable cost determination for the domestic offer or there is no domestic offer received, and the low offer is for a foreign end product that does not exceed 55 percent domestic content, the contracting officer shall—

(A) Treat the lowest offer of a foreign end product that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer; and

(B) Determine the reasonableness of the cost of this offer by applying the evaluation factors listed in paragraph (b)(1)(i) of this section to the low offer.

(ii) The price of the lowest offer of a foreign end product that exceeds 55 percent domestic content is reasonable if it does not exceed the evaluated price of the low offer after addition of the appropriate evaluation factor in accordance with paragraph (a) or (b)(1)(i) of this section. See evaluation procedures at subpart 25.5.

(iii) The procedures in this paragraph (b)(2) will no longer apply as of January 1, 2030.

(c) *For end products that are critical items or contain critical components.* (1)(i) If there is a domestic offer that is not the low offer, and the restrictions of the Buy American statute apply to the low offer, the contracting officer shall determine the reasonableness of the cost of the domestic offer by adding to the price of the low offer, inclusive of duty—

(A) 20 percent, plus the additional preference factor identified for the critical item or end product containing critical components listed at section 25.105, if the lowest domestic offer is from a large business concern; or

(B) 30 percent, plus the additional preference factor identified for the critical item or end product containing critical components listed at section 25.105, if the lowest domestic offer is from a small business concern. The contracting officer shall use this factor, or another factor established in agency regulations, in small business set-asides if the low offer is from a small business concern offering the product of a small business concern that is not a domestic end product (see subpart 19.5).

(ii) The price of the domestic offer is reasonable if it does not exceed the evaluated price of the low offer after addition of the appropriate evaluation factor in accordance with paragraph (a) or (b) of this section. See evaluation procedures at subpart 25.5.

(2)(i) For end products that are not COTS items and do not consist wholly or predominantly of iron or steel or a combination of both, if the procedures in paragraph (c)(1)(ii) of this section result in an unreasonable cost determination for the domestic offer or there is no domestic offer received, and the low offer is for a foreign end product that does not exceed 55 percent domestic content, the contracting officer shall—

(A) Treat the lowest offer of a foreign end product that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer; and

(B) Determine the reasonableness of the cost of this offer by applying the evaluation factors listed in paragraph (c)(1) of this section to the low offer.

(ii) The price of the lowest offer of a foreign end product that exceeds 55 percent domestic content is reasonable if it does not exceed the evaluated price of the low offer after addition of the appropriate evaluation factor in accordance with paragraph (a) or (b) of this section. See evaluation procedures at subpart 25.5.

(iii) The procedures in this paragraph (c)(2) will no longer apply as of January 1, 2030.

■ 10. Amend section 25.200 by—
■ a. In paragraph (a)(3) removing the word ''and'';
■ b. Redesignating paragraph (a)(4) as paragraph (a)(5);
■ c. Adding a new paragraph (a)(4); and
■ d. In paragraph (c) removing the word ''Subpart'' and adding the word ''subpart'' in its place.

The addition reads as follows:

25.200 Scope of subpart.

(a) * * *

(4) Executive Order 14005, January 25, 2021; and

* * * * *

■ 11. Amend section 25.201 by—
■ a. Removing from paragraph (b) introductory text the phrase ''statute and E.O. 13881 use'' and adding the phrase ''statute, E.O. 13881, and E.O. 14005 use'' in its place;
■ b. Revising the first sentence of paragraph (b)(2)(i); and
■ c. Adding paragraph (c).

The revision and addition read as follows.

25.201 Policy.

* * * * *

(b) * * *

(2)(i) Except for construction material that consists wholly or predominantly of iron or steel or a combination of both, the cost of domestic components must exceed 60 percent of the cost of all the components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, but see paragraph (c) of this section. * * *

* * * * *

(c)(1) A contract with a period of performance that spans the schedule of domestic content threshold increases specified in paragraph (b)(2)(i) of this section shall be required to comply with each increased threshold for the items in the year of delivery, unless the senior procurement executive of the contracting agency allows for application of an alternate domestic content test for that contract under which the domestic content threshold in effect at time of contract award will apply to the entire period of performance for the contract. This authority is not delegable. The senior procurement executive shall consult the Office of Management and Budget's Made in America Office before allowing the use of the alternate domestic content test.

(2) When a senior procurement executive allows for application of an alternate domestic content test for a contract, see 25.1102(a)(3) or (c)(4) for use of the appropriate Alternate clause to reflect the domestic content threshold that will apply to the entire period of performance for that contract.

■ 12. Amend section 25.202 by adding a sentence to the end of paragraph (a)(2) to read as follows:

25.202 Exceptions.

(a) * * *

(2) * * * A determination is not required before January 1, 2030, if there is an offer for a foreign construction material that exceeds 55 percent domestic content (see 25.204(b)(1)(ii) and 25.204(b)(2)(ii)).

* * * * *

■ 13. Amend section 25.204 by revising paragraph (b) to read as follows:

25.204 Evaluating offers of foreign construction material.

* * * * *

(b)(1) *For construction material that is not a critical item and does not contain critical components.* (i) Unless the head of the agency specifies a higher percentage, the contracting officer shall add to the offered price 20 percent of the cost of any foreign construction material proposed for exception from the requirements of the Buy American statute based on the unreasonable cost of domestic construction materials. In the case of a tie, the contracting officer shall give preference to an offer that does not include foreign construction material excepted at the request of the offeror on the basis of unreasonable cost.

(ii) For construction material that is not a COTS item and does not consist wholly or predominantly of iron or steel or a combination of both, if the procedures in paragraph (b)(1)(i) of this section result in an unreasonable cost determination for the domestic construction material offer or there is no domestic construction material offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the contracting officer shall—

(A) Treat the lowest offer of foreign construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer; and

(B) Determine the reasonableness of the cost of this offer by applying the evaluation factor listed in paragraph (b)(1)(i) to the low offer.

(iii) The procedures in paragraph (b)(1)(ii) of this section will no longer apply as of January 1, 2030.

(2) *For construction material that is a critical item or contains critical components.* (i) The contracting officer shall add to the offered price 20 percent, plus the additional preference factor identified for the critical item or construction material containing critical components listed at section 25.105, of the cost of any foreign construction material proposed for exception from the requirements of the Buy American statute based on the unreasonable cost of domestic construction materials. In the case of a tie, the contracting officer shall give preference to an offer that does not include foreign construction material excepted at the request of the offeror on the basis of unreasonable cost. See 25.105 for the list of critical components and critical items.

(ii) For construction material that is not a COTS item and does not consist wholly or predominantly of iron or steel or a combination of both, if the procedures in paragraph (b)(2)(i) of this section result in an unreasonable cost determination for the domestic construction material offer or there is no domestic construction material offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the contracting officer shall—

(A) Treat the lowest offer of foreign construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer; and

(B) Determine the reasonableness of the cost of this offer by applying the evaluation factors listed in this paragraph (b)(2) to the low offer.

(iii) The procedures in paragraph (b)(2)(ii) of this section will no longer apply as of January 1, 2030.

* * * * *

25.501 [Amended]

■ 14. Amend section 25.501 by—
■ a. Removing from paragraph (c) the word ''Subpart'' and adding the word ''subpart'' in its place; and
■ b. Removing from paragraph (d) the word ''Must'' and adding the phrase ''When trade agreements are involved, must'' in its place.

■ 15. Amend section 25.502 by revising paragraphs (c)(2) and (3) and (c)(4) introductory text to read as follows:

25.502 Application.

* * * * *

(c) * * *

(2) If the low offer is a noneligible offer and there were no domestic offers (*see* 25.103(b)(3)), award on the low offer. The procedures at 25.106(b)(2) and 25.106(c)(2) do not apply.

(3) If the low offer is a noneligible offer and there is an eligible offer that

is lower than the lowest domestic offer, award on the low offer. The procedures at 25.106(b)(2) and 25.106(c)(2) do not apply.

(4) Otherwise, apply the appropriate evaluation factor provided in 25.106 to the low offer. The procedures at 25.106(b)(2) and 25.106(c)(2) do not apply.

* * * * *

■ 16. Amend section 25.503 by—

■ a. Removing from paragraph (a)(1) the word ''Subpart' and adding the word ''subpart'' in its place; and

■ b. Adding paragraph (d).

The addition reads as follows:

25.503 Group offers.

* * * * *

(d) If no trade agreement applies to a solicitation and the solicitation specifies that award will be made only on a group of line items or all line items contained in the solicitation, determine the category of end products (*i.e.,* domestic or foreign) on the basis of each line item, but determine whether to apply an evaluation factor on the basis of the group of items (*see* 25.504–4(c), Example 3).

(1) If the proposed price of domestic end products exceeds 50 percent of the total proposed price of the group, evaluate the entire group as a domestic offer. Evaluate all other groups as foreign offers.

(2) Apply the evaluation factor to the entire group in accordance with 25.502, except where 25.502(c)(4) applies and the evaluated price of the low offer remains less than the lowest domestic offer. Where the evaluated price of the low offer remains less than the lowest domestic offer, treat as a domestic offer any group where the proposed price of end products with a domestic content of at least 55 percent exceeds 50 percent of the total proposed price of the group.

(3) Apply the evaluation factor to the entire group in accordance with 25.502(c)(4).

■ 17. Amend section 25.504–1 by—

■ a. In the table in paragraph (a)(1), revising the entry for ''Offer C'';

■ b. Revising paragraph (a)(2); and

■ c. Adding paragraph (c).

The revision and addition read as follows:

25.504–1 Buy American statute.

(a)(1) * * *

*	*	*	*	*	*	*
Offer C		$10,100	U.S.-made end product (not domestic), small business.			

(2) *Analysis.* This acquisition is for end products for use in the United States and is set aside for small business concerns. The Buy American statute applies. Since the acquisition value is less than $25,000 and the acquisition is set aside, none of the trade agreements apply. Perform the steps in 25.502(a). Offer C is of 50 percent domestic content, therefore Offer C is evaluated as a foreign end product, because it is the product of a small business but is not a domestic end product (*see* 25.502(c)(4)). Since Offer B is a domestic offer, apply the 30 percent factor to Offer C (*see* 25.106(b)(2)). The resulting evaluated price of $13,130 remains lower than Offer B. The cost of Offer B is therefore unreasonable (*see* 25.106(b)(1)(ii)). The 25.106(b)(2) procedures do not apply. Award on Offer C at $10,100 (*see* 25.502(c)(4)(i)).

* * * * *

(c)(1) *Example 3.*

Offer A	$14,000	Domestic end product (complies with the required domestic content), small business.
Offer B	12,500	U.S.-made end product (not domestic, exceeds 55% domestic content), small business.
Offer C	10,100	U.S.-made end product (not domestic, with less than 55% domestic content), small business.

(2) *Analysis.* This acquisition is for end products for use in the United States and is set aside for small business concerns. The Buy American statute applies. Since the acquisition value is less than $25,000 and the acquisition is set aside, none of the trade agreements apply. Perform the steps in 25.502(a). Offers B and C are initially evaluated as foreign end products, because they are the products of small businesses but are not domestic end products (*see* 25.502(c)(4)). Offer C is the low offer. After applying the 30 percent factor, the evaluated price of Offer C is $13,130. The resulting evaluated price of $13,130 remains lower than Offer A. The cost of Offer A is therefore unreasonable. Offer B is then treated as a domestic offer, because it is for a U.S.-made end product that exceeds 55 percent domestic content (*see* 25.106(b)(2)). Offer B is determined reasonable because it is lower than the $13,130 evaluated price of Offer C. Award on Offer B at $12,500.

■ 18. Amend section 25.504–4 by adding paragraph (c) to read as follows:

25.504–4 Group award basis.

* * * * *

(c) *Example 3.*

Item	Offers		
	A	B	C
1	DO = $17,800	FO (>55%) = $16,000	FO (<55%) = $11,200.
2	FO (>55%) = $9,000	FO (>55%) = $8,500	DO = $10,200.
3	FO (<55%) = $11,200	FO (>55%) = $12,000	FO (<55%) = $11,000.
4	DO = $10,000	DO = $9,000	FO (<55%) = $6,400.
Total	$48,000	$45,500	$38,800.

Key:
DO = Domestic end product (complies with the required domestic content).
FO > 55% = Foreign end product with domestic content exceeding 55%.
FO < 55% = Foreign end product with domestic content of 55% or less.

Problem: The solicitation specifies award on a group basis. Assume only the Buy American statute applies (*i.e.,* no trade agreements apply) and the acquisition cannot be set aside for small business concerns. All offerors are large businesses.

Analysis: (see 25.503(d))

STEP 1: Determine which of the offers are domestic (see 25.503(d)(1)):

	Domestic (percent)	Determination
A	$17,800 (Offer A1) + $10,000 (Offer A4) = $27,800 $27,800/$48,000 (Offer A Total) = 58%	Domestic.
B	$9,000 (Offer B4)/$45,500 (Offer B Total) = 19.8%	Foreign.
C	$10,200 (Offer C2)/$38,800 (Offer C Total) = 26.3%	Foreign.

STEP 2: Determine which offer, domestic or foreign, is the low offer. If the low offer is a foreign offer, apply the evaluation factor (see 25.503(d)(2)). The low offer (Offer C) is a foreign offer. Therefore, apply the factor to the low offer. Addition of the 20 percent factor (use 30 percent if Offer A is a small business) to Offer C yields an evaluated price of $46,560 ($38,800 + 20 percent). Offer C remains the low offer.

STEP 3: Determine if there is a foreign offer that could be treated as a domestic offer (see 25.106(b)(2) and 25.503(d)(2)).

	Amount of domestic content (percent)	Determination
A	N/A	N/A.
B	$9,000 (Offer B4)/$45,500 (Offer B Total) $ = 19.8% is domestic AND $16,000 (Offer B1) + $8,500 (Offer B2) + $12,000 (Offer B3) = $36,500. $36,500/$45,500 (Offer B Total) = 80.2% can be treated as domestic. 19.8% + 80.2% = 100% is domestic or can be treated as domestic.	Can be treated as domestic.
C	$10,200 (Offer C2)/$38,800 (Offer C Total) = 26.3% is domestic	Foreign.

STEP 4: If there is a foreign offer that could be treated as a domestic offer, compare the evaluated price of the low offer to the price of the offer treated as domestic (*see* 25.503(d)(3)). Offer B can be treated as a domestic offer ($45,500). The evaluated price of the low offer (Offer C) is $46,560. Award on Offer B.

■ 19. Amend section 25.1101 by—

■ a. Redesignating paragraphs (a)(1)(i) through (iii) as paragraphs (a)(1)(i)(A) through (C);

■ b. Redesignating paragraph (a)(1) introductory text as paragraph (a)(1)(i); and

■ c. Adding paragraphs (a)(1)(ii) and (b)(1)(v).

The additions read as follows:

25.1101 Acquisition of supplies.

* * * * *

(a)(1) * * *

(ii) The contracting officer shall use the clause with its Alternate I to reflect the domestic content threshold that will apply to the entire period of performance, when the senior procurement executive allows for application of an alternate domestic content test for the contract in accordance with 25.101(d). For contracts that the contracting officer estimates will be awarded in calendar year 2022 or 2023, the contracting officer shall insert ''60'' in paragraph (1)(ii)(A) of the definition of ''domestic end product.'' For contracts that the contracting officer estimates will be awarded in calendar year 2024, 2025, 2026, 2027, or 2028, the contracting officer shall insert ''65''. For contracts that the contracting officer estimates will be awarded after calendar year 2028 the contracting officer shall insert ''75''.

* * * * *

(b)(1) * * *

(v) The contracting officer shall use the clause with its Alternate IV to reflect the domestic content threshold that will apply to the entire period of performance, when the senior procurement executive allows for application of an alternate domestic content test for the contract in accordance with 25.102(d). For contracts that the contracting officer estimates will be awarded in calendar year 2022 or 2023, the contracting officer shall insert ''60'' in paragraph (1)(ii)(A) of the definition of ''domestic end product.'' For contracts that the contracting officer estimates will be awarded in calendar year 2024, 2025, 2026, 2027, or 2028, the contracting officer shall insert ''65''. For contracts that the contracting officer estimates will be awarded after calendar year 2028 the contracting officer shall insert ''75''.

* * * * *

■ 20. Amend section 25.1102 by adding paragraphs (a)(3) and (c)(4) to read as follows:

25.1102 Acquisition of construction.

* * * * *

(a) * * *

(3) The contracting officer shall use the clause with its Alternate I to reflect the domestic content threshold that will apply to the entire period of performance, when the senior procurement executive allows for application of an alternate domestic content test for the contract in accordance with 25.201(c). For contracts that the contracting officer estimates will be awarded in calendar year 2022 or 2023, the contracting officer shall insert ''60'' in paragraph (1)(ii)(A) of the definition of ''domestic construction material.'' For contracts that the contracting officer estimates will be awarded in calendar year 2024, 2025, 2026, 2027, or 2028, the contracting officer shall insert ''65''. For contracts that the contracting officer estimates will be awarded after calendar year 2028 the contracting officer shall insert ''75''.

* * * * *

(c) * * *

(4) The contracting officer shall use the clause with its Alternate II to reflect the domestic content threshold that will apply to the entire period of performance, when the senior procurement executive allows for application of an alternate domestic content test for the contract in accordance with 25.201(c). For contracts that the contracting officer estimates will be awarded in calendar year 2022 or 2023, the contracting officer shall insert ''60'' in paragraph (1)(ii)(A) of the

definition of ''domestic construction material.'' For contracts that the contracting officer estimates will be awarded in calendar year 2024, 2025, 2026, 2027, or 2028, the contracting officer shall insert ''65''. For contracts that the contracting officer estimates will be awarded after calendar year 2028 the contracting officer shall insert ''75''.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 21. Amend section 52.212–3 by—

■ a. Revising the date of the provision;

■ b. In paragraph (f)(1)(i) removing the word ''product'' and adding the phrase ''product and that each domestic end product listed in paragraph (f)(3) of this provision contains a critical component'' in its place;

■ c. Adding two sentences to the end of paragraph (f)(1)(ii);

■ d. Redesignating paragraph (f)(1)(iii) as paragraph (f)(1)(iv) and adding a new paragraph (f)(1)(iii);

■ e. Removing from the newly redesignated paragraph (f)(1)(iv) the phrase ''The terms ''domestic end product,'' '' and adding the phrase ''The terms ''commercially available off-the-shelf (COTS) item,'' ''critical component,'' ''domestic end product,'' '' in its place;

■ f. Revising the table in paragraph (f)(2);

■ g. Redesignating paragraph (f)(3) as paragraph (f)(4) and adding a new paragraph (f)(3);

■ h. In the newly redesignated paragraph (f)(4) removing the word ''Part'' and adding the word ''part'' in its place;

■ i. In paragraph (g)(1)(i)(A) removing second occurrence of the word ''product'' and adding the phrase ''product and that each domestic end product listed in paragraph (g)(1)(iv) of this provision contains a critical component'' in its place;

■ j. In paragraph (g)(1)(i)(B) removing the phrases ''Peruvian end product,'' ''domestic end product,'' '' and adding in their places the phrases ''Peruvian end product,'' ''commercially available off-the-shelf (COTS) item,'' ''critical component,'' ''domestic end product,'' '';

■ k. Adding two sentences at the end of paragraph (g)(1)(iii) introductory text and revising the table;

■ l. Redesignating paragraph (g)(1)(iv) as paragraph (g)(1)(v) and adding a new paragraph (g)(1)(iv); and

■ m. In the newly redesignated paragraph (g)(1)(v) removing the word ''Part'' and adding the word ''part'' in its place.

The revisions and additions read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Products and Commercial Services.

* * * * *

Offeror Representations and Certifications—Commercial Products and Commercial Services (OCT 2022)

* * * * *

(f) * * *

(1) * * *

(ii) * * * For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select ''no''.

(iii) The Offeror shall separately list the line item numbers of domestic end products that contain a critical component (see FAR 25.105).

* * * * *

(2) * * *

Line Item No.	Country of origin	Exceeds 55% domestic content (yes/no)

[List as necessary]

(3) Domestic end products containing a critical component:

Line Item No. _____

[List as necessary]

* * * * *

(g)(1) * * *

(iii) * * * For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select ''no''.

Other Foreign End Products:

Line Item No.	Country of origin	Exceeds 55% domestic content (yes/no)

[List as necessary]

(iv) The Offeror shall list the line item numbers of domestic end products that contain a critical component (see FAR 25.105).

Line Item No. _____

[List as necessary]

* * * * *

■ 22. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Redesignating paragraph (b)(48) as paragraph (b)(48)(i) and removing from the newly redesignated paragraph (b)(48)(i) the date ''(NOV 2021)'' and adding ''(OCT 2022)'' in its place;

■ c. Adding paragraph (b)(48)(ii);

■ d. Removing from paragraph (b)(49)(i) the date ''(NOV 2021)'' and adding ''(OCT 2022)'' in its place; and

■ e. Adding paragraph (b)(49)(v).

The revision and additions read as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services (OCT 2022)

* * * * *

(b) * * *

____(48) * * *

____(ii) Alternate I (OCT 2022) of 52.225–1.

____(49) * * *

____(v) Alternate IV (OCT 2022) of 52.225–3.

* * * * *

■ 23. Amend section 52.213–4 by—

■ a. Revising the date of the clause;

■ b. Redesignating paragraphs (b)(1)(xvii)(A) and (B) as paragraphs (b)(1)(xvii)(A)(*1*) and (*2*) and redesignating paragraph (b)(1)(xvii) introductory text as paragraph (b)(1)(xvii)(A) and;

■ c. In the newly redesignated paragraph (b)(1)(xvii)(A) removing the date ''(NOV 2021)'' and adding ''(OCT 2022)'' in its place; and

■ d. Adding paragraph (b)(1)(xvii)(B);

The revision and addition read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services) (OCT 2022)

(b) * * *

(1) * *

(xvii) * * *

(B) *Alternate I* (OCT 2022) (Applies if the Contracting Officer has filled in the domestic content threshold below, which will apply to the entire contract period of performance. Substitute the following sentence for the first sentence of paragraph (1)(ii)(A) of the definition of *domestic end product* in paragraph (a) of 52.225–1:

(A) The cost of its components mined, produced, or manufactured in the United States exceeds ____ percent of the cost of all its components. [*Contracting officer to insert the percentage per instructions at 13.302–5(d)(4).*])

* * * * *

■ 24. Amend section 52.225–1 by—

■ a. Revising the date of the clause;

■ b. Adding in alphabetical order a definition for ''Critical component'' in paragraph (a);

■ c. In paragraph (a), in the definition of ''Domestic end product'' revising the first sentence of paragraph (1)(ii)(A); and

■ d. Adding Alternate I to the end of the section.

The revisions and additions read as follows:

52.225–1 Buy American—Supplies.

* * * * *

Buy American—Supplies (OCT 2022)

(a) * * *

Critical component means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.

Domestic end product * * *

(1) * * *

(ii) * * *

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 60 percent of the cost of all its components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029. * * *

* * * * *

Alternate I (OCT 2022). As prescribed in 25.1101(a)(1)(ii) substitute the following sentence for the first sentence of paragraph (1)(ii)(A) of the definition of ''domestic end product'' in paragraph (a):

(A) The cost of its components mined, produced, or manufactured in the United States exceeds ____ percent of the cost of all its components. [*Contracting officer to insert the percentage.*]

■ 25. Amend section 52.225–2 by—

■ a. Revising the date of the provision;

■ b. Revising paragraph (a)(1);

■ c. Adding two sentences at the end of paragraph (a)(2);

■ d. Redesignating paragraph (a)(3) as paragraph (a)(4) and adding a new paragraph (a)(3);

■ e. In newly redesignated paragraph (a)(4) removing the phrase ''The terms'' and adding the phrase ''The terms ''commercially available off-the-shelf (COTS) item,'' ''critical component,'' '' in its place;

■ f. Revising the table in paragraph (b);

■ g. Redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c).

The revisions and additions read as follows:

52.225–2 Buy American Certificate.

* * * * *

Buy American Certificate (OCT 2022)

(a)(1) The Offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a domestic end product and that each domestic end product listed in paragraph (c) of this provision contains a critical component.

(2) * * * For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select ''no''.

(3) The Offeror shall separately list the line item numbers of domestic end products that contain a critical component (see FAR 25.105).

* * * * *

(b) * * *

Line Item No.	Country of origin	Exceeds 55% domestic content (yes/no)

[List as necessary]

(c) Domestic end products containing a critical component:

Line Item No. _____

[List as necessary]

* * * * *

■ 26. Amend section 52.225–3 by—

■ a. Revising the date of the clause;

■ b. Adding in alphabetical order a definition for ''Critical component'' in paragraph (a);

■ c. In paragraph (a), in the definition ''Domestic end product'' revising the first sentence of paragraph (1)(ii)(A); and

■ d. Adding Alternate IV.

The revisions and additions read as follows:

52.225–3 Buy American—Free Trade Agreements—Israeli Trade Act.

* * * * *

Buy American—Free Trade Agreements—Israeli Trade Act (OCT 2022)

(a) * * *

Critical component means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.

Domestic end product * * *

(1) * * *

(ii) * * *

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 60 percent of the cost of all its components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75

percent for items delivered starting in calendar year 2029. * * *

* * * * *

Alternate IV (OCT 2022). As prescribed in 25.1101(b)(1)(v) substitute the following sentence for the first sentence of paragraph (1)(ii)(A) of the definition of *domestic end product* in paragraph (a):

(A) The cost of its components mined, produced, or manufactured in the United States exceeds ____ percent of the cost of all its components. [*Contracting officer to insert the percentage.*]

■ 27. Amend section 52.225–4 by—

■ a. Revising the date of the provision;

■ b. Revising paragraph (a)(1);

■ c. In paragraph (a)(2) removing the phrases ''Peruvian end product,'' ''domestic end product,'''' and adding in their places ''Peruvian end product,'' ''commercially available off-the-shelf (COTS) item,'' ''critical component,'' ''domestic end product,'''';

■ d. Redesignating paragraph (c) as paragraph (c)(1) and adding two sentences at the end of newly designated paragraph (c)(1);

■ e. Revising the table in newly designated paragraph (c)(1); and

■ f. Adding paragraph (c)(2).

The revisions and additions read as follows:

52.225–4 Buy American—Free Trade Agreements—Israeli Trade Act Certificate.

* * * * *

Buy American—Free Trade Agreements—Israeli Trade Act Certificate (OCT 2022)

(a)(1) The Offeror certifies that each end product, except those listed in paragraph (b) or (c)(1) of this provision, is a domestic end product and that each domestic end product listed in paragraph (c)(2) of this provision contains a critical component.

* * * * *

(c)(1) * * * For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select ''no''.

* * * * *

Line Item No.	Country of origin	Exceeds 55% domestic content (yes/no)

* * * * *

(2) The Offeror shall list the line item numbers of domestic end products that contain a critical component (see FAR 25.105).

Line Item No. _____

[List as necessary]

* * * * *

■ 28. Amend section 52.225–9 by—

■ a. Revising the date of the clause;

■ b. Adding in alphabetical order definitions for ''Critical component'' and ''Critical item'';

■ c. In the definition ''Domestic construction material'' revising the first sentence of paragraph (1)(ii)(A);

■ d. Revising paragraph (b)(3)(i); and

■ e. Adding Alternate I to the end of the section.

The revisions and additions read as follows:

52.225–9 Buy American—Construction Materials.

* * * * *

Buy American—Construction Materials (OCT 2022)

(a) * * *

Critical component means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.

Critical item means a domestic construction material or domestic end product that is deemed critical to U.S. supply chain resiliency. The list of critical items is at FAR 25.105.

Domestic construction material * * *

(1) * * *

(ii) * * *

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 60 percent of the cost of all its components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029. * * *

* * * * *

(b) * * *

(3) * * *

(i) The cost of domestic construction material would be unreasonable.

(A) *For domestic construction material that is not a critical item or does not contain critical components.*

(*1*) The cost of a particular domestic construction material subject to the requirements of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent;

(*2*) For construction material that is not a COTS item and does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that is manufactured in the United States and does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that exceeds 55 percent domestic content as a domestic offer and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(3)(i)(A)(*1*) of this clause.

(*3*) The procedures in paragraph (b)(3)(i)(A)(*2*) of this clause will no longer apply as of January 1, 2030.

(B) *For domestic construction material that is a critical item or contains critical components.* (*1*) The cost of a particular domestic construction material that is a critical item or contains critical components, subject to the requirements of the Buy American statute, is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent plus the additional preference factor identified for the critical item or construction material containing critical components listed at FAR 25.105.

(*2*) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest foreign offer of construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer, and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(3)(i)(B)(*1*) of this clause.

(*3*) The procedures in paragraph (b)(3)(i)(B)(*2*) of this clause will no longer apply as of January 1, 2030.

* * * * *

Alternate I (OCT 2022). As prescribed in 25.1102(a)(3), substitute the following sentence for the first sentence in paragraph (1)(ii)(A) of the definition of ''domestic construction material'' in paragraph (a):

(A) The cost of its components mined, produced, or manufactured in the United States exceeds ____ percent of the cost of all its components. [*Contracting officer to insert the percentage.*]

■ 29. Amend section 52.225–11 by—

■ a. Revising the date of the clause;

■ b. Adding in alphabetical order definitions for ''Critical component'' and ''Critical item'' in paragraph (a);

■ c. In paragraph (a), in the definition ''Domestic construction material''

revising the first sentence of paragraph (1)(ii)(A);

■ d. Revising paragraph (b)(4)(i); and

■ e. Adding Alternate II.

The revisions and additions read as follows:

52.225–11 Buy American—Construction Materials Under Trade Agreements.

* * * * *

Buy American—Construction Materials Under Trade Agreements (OCT 2022)

(a) * * *

Critical component means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.

Critical item means a domestic construction material or domestic end product that is deemed critical to U.S. supply chain resiliency. The list of critical items is at FAR 25.105.

* * * * *

Domestic construction material * * *

(1) * * *

(ii) * * *

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 60 percent of the cost of all its components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029. * * *

* * * * *

(b) * * *

(4) * * *

(i) The cost of domestic construction material would be unreasonable.

(A) *For domestic construction material that is not a critical item or does not contain critical components.* (*1*) The cost of a particular domestic construction material subject to the restrictions of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent;

(*2*) For construction material that is not a COTS item and does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(4)(i)(A)(*1*) of this clause.

(*3*) The procedures in paragraph (b)(4)(i)(A)(*2*) of this clause will no longer apply as of January 1, 2030.

(B) *For domestic construction material that is a critical item or contains critical components.* (*1*) The cost of a particular domestic construction material that is a critical item or contains critical components, subject to the requirements of the Buy American statute, is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent plus the additional preference factor identified for the critical item or construction material containing critical components listed at FAR 25.105.

(*2*) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer, and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(4)(i)(B)(*1*) of this clause.

(*3*) The procedures in paragraph (b)(4)(i)(B)(*2*) of this clause will no longer apply as of January 1, 2030.

* * * * *

Alternate II (OCT 2022). As prescribed in 25.1102(c)(4) substitute the following sentence for the first sentence of paragraph (1)(ii)(A) of the definition of *domestic construction material* in paragraph (a):

(A) The cost of its components mined, produced, or manufactured in the United States exceeds ____ percent of the cost of all its components. [*Contracting officer to insert the percentage.*]

[FR Doc. 2022–04173 Filed 3–4–22; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2022–0051, Sequence No. 2]

Federal Acquisition Regulation; Federal Acquisition Circular 2022–05; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide (SECG).

SUMMARY: This document is issued under the joint authority of DoD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2022–05, which amends the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding this rule by referring to FAC 2022–05, which precedes this document.

DATES: March 7, 2022.

ADDRESSES: The FAC, including the SECG, is available at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Mahruba Uddowla, Procurement Analyst, at 703–605–2868 or by email at *mahruba.uddowla@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2022–05, FAR Case 2021–008.

RULE LISTED IN FAC 2022–05

Subject	FAR case
Amendments to the FAR Buy American Act—Requirements	2021–008

SUPPLEMENTARY INFORMATION: A summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR rule, refer to the specific subject set forth in the document following this summary. FAC 2022–05 amends the FAR as follows:

Amendments to the FAR Buy American Act Requirements (FAR Case 2021–008)

This final rule amends the Federal Acquisition Regulation (FAR) to implement section 8 of E.O. 14005, Ensuring the Future Is Made in All of America by All of America's Workers. Upon the October 25, 2022, effective date, this final FAR rule changes the domestic content threshold to 60 percent immediately, then to 65 percent for items delivered starting in calendar year 2024, and then to 75 percent for items delivered starting in calendar year 2029. While a supplier that is awarded a contract with a period of performance that spans this schedule of domestic content threshold increases will be required to comply with each increased threshold for the items in the year of delivery, this rule allows for the agency senior procurement executive to apply an alternate domestic content test under which the contractor would be required to comply with the domestic content threshold in place at time of award for the entire life of the contract.

This final rule also creates a fallback threshold that would allow for products

and construction material meeting a 55 percent domestic content threshold to qualify as ''domestic'' under certain circumstances.

In addition, the final rule creates a framework for application of an enhanced price preference for a domestic product/domestic construction material that is considered a critical item or made up of critical components. The list of critical items and critical components, along with the associated enhanced price preference, will be incorporated in the FAR through separate rulemaking.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2022–04174 Filed 3–4–22; 8:45 am]

BILLING CODE 6820–EP–P

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Part III

Department of Energy

10 CFR Part 431
Energy Conservation Program: Energy Conservation Standards for Computer Room Air Conditioners; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2020–BT–STD–0008]

RIN 1904–AF01

Energy Conservation Program: Energy Conservation Standards for Computer Room Air Conditioners

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The Energy Policy and Conservation Act, as amended (EPCA), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including small, large, and very large commercial package air conditioning and heating equipment, of which computer room air conditioners (CRACs) are a category. EPCA requires the U.S. Department of Energy (DOE or the Department) to consider the need for amended standards each time the relevant industry standard is amended with respect to the standard levels or design requirements applicable to that equipment, or periodically under a six-year-lookback review provision. In this document, DOE is proposing amended energy conservation standards for CRACs that rely on a new efficiency metric and are equivalent to those levels specified in the industry standard. DOE has preliminarily determined that it lacks the clear and convincing evidence required by the statute to adopt standards more stringent than the levels specified in the industry standard. This document also announces a public meeting webinar to receive comment on these proposed standards and associated analyses and results.

DATES:

Meeting: DOE will hold a public meeting via webinar on Wednesday, April 13, 2022, from 1:00 p.m. to 4:00 p.m. See section VII, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

Comments: DOE will accept written comments, data, and information regarding this notice of proposed rulemaking (NOPR) on and before May 6, 2022.

Comments regarding the likely competitive impact of the proposed standard should be sent to the Department of Justice contact listed in the **ADDRESSES** section on or before April 6, 2022.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments by email to the following address: *2019ASHRAE2020STD0008@ee.doe.gov.* Include docket number EERE–2020–BT–STD–0008 and/or RIN 1904–AF01 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section VII (Public Participation) of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including the Federal eRulemaking Portal, email, postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing COVID–19 pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. DOE is currently accepting only electronic submissions at this time. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the COVID–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at: *www.regulations.gov/#!docketDetail;D=EERE-2020-BT-STD-0008.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section VII.D ''Public Participation,'' for information on how to submit comments through *www.regulations.gov.*

EPCA requires the Attorney General to provide DOE a written determination of whether the proposed standard is likely to lessen competition. The U.S. Department of Justice Antitrust Division invites input from market participants and other interested persons with views on the likely competitive impact of the proposed standard for CRACs. Interested persons may contact the Division at *energy.standards@usdoj.gov* on or before the date specified in the **DATES** section. Please indicate in the ''Subject'' line of your email the title and Docket Number of this proposed rulemaking.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Rivest, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–7335. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5827. Email: *Eric.Stas@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, or participate in the webinar, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Synopsis of the Proposed Rule

Title III, Part C [1] of EPCA [2] established the Energy Conservation Program for Certain Industrial Equipment. (42 U.S.C. 6311–6317) Such equipment includes CRACs, the subject of this proposed rulemaking. (42 U.S.C. 6311(1)(B)–(D)).

Pursuant to EPCA, DOE is triggered to consider amending the energy conservation standards for certain types of commercial and industrial equipment, including the equipment at issue in this document, whenever the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) amends the standard levels or design requirements prescribed in ASHRAE Standard 90.1, ''Energy Standard for Buildings Except Low-Rise Residential Buildings'' (ASHRAE Standard 90.1). Under a separate provision of EPCA, DOE is required to review the existing energy conservation standards for those types of covered equipment subject to ASHRAE Standard 90.1 every six years to determine whether those standards need to be amended. (42 U.S.C. 6313(a)(6)(A)–(C)) For each type of equipment, EPCA directs that if ASHRAE Standard 90.1 is amended, DOE must adopt amended energy conservation standards at the new efficiency level in ASHRAE Standard 90.1, unless clear and convincing evidence supports a determination that adoption of a more-stringent efficiency level would produce significant additional energy savings and be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)) If DOE adopts as a uniform national standard the efficiency level specified in the amended ASHRAE Standard 90.1, DOE must establish such standard not later than 18 months after publication of the amended industry standard. (42 U.S.C. 6313(a)(6)(A)(ii)(I)) If DOE determines that a more-stringent standard is appropriate under the statutory criteria, DOE must establish such more-stringent standard not later than 30 months after publication of the revised ASHRAE Standard 90.1. (42 U.S.C. 6313(a)(6)(B)(i)) ASHRAE last updated ASHRAE Standard 90.1 on October 24, 2019 (ASHRAE Standard 90.1–2019), thereby triggering DOE's previously referenced obligations pursuant to EPCA to determine for CRACs, whether: (1) The amended industry standard should be adopted; or (2) clear and convincing evidence exists to justify more-stringent standard levels.

The current Federal energy conservation standards for CRACs are set forth at title 10 of the Code of Federal Regulations (CFR), 10 CFR 431.97 and, as specified in 10 CFR 431.96, those standards are denominated in terms of Sensible Coefficient of Performance (SCOP) and based on the rating conditions in American National Standards Institute (ANSI)/ASHRAE 127–2007, ''Method of Testing for Rating Computer and Data Processing Room Unitary Air Conditioners'' (ANSI/ASHRAE 127–2007). However, the efficiency levels for CRACs set forth in ASHRAE Standard 90.1–2019 are specified in terms of Net Sensible Coefficient of Performance (NSenCOP) and based on rating conditions in Air-Conditioning, Heating, and Refrigeration Institute (AHRI) Standard 1360–2017, ''Performance Rating of Computer and Data Processing Room Air Conditioners'' (AHRI 1360–2017), which differ from the rating conditions specified in ANSI/ASHRAE 127–2007 for most configurations of CRACs. Therefore, while SCOP and NSenCOP are both ratios of the net sensible cooling capacity (NSCC) to the power consumed by the unit, they are measured at different rating conditions for most configurations of CRACs [3] and correspondingly provide different representations of efficiency. DOE has compared the stringency of standards in ASHRAE Standard 90.1–2019 (in terms of NSenCOP) to the corresponding current Federal energy conservation standards (in terms of SCOP) by conducting a crosswalk analysis. Based on the results of that analysis, DOE has tentatively concluded that the ASHRAE Standard 90.1–2019 levels are equivalent in stringency to the current Federal standards for six equipment classes and are more stringent than the current Federal standards for the remaining 46 equipment classes of CRACs.

For all CRAC equipment classes, DOE has tentatively determined that there is not clear and convincing evidence of significant additional energy savings to justify amended standards for CRACs that are more stringent than the ASHRAE Standard 90.1–2019 levels. Clear and convincing evidence would exist only where the specific facts and data made available to DOE regarding a particular ASHRAE amendment demonstrate that there is no substantial doubt that a standard more stringent than that contained in the ASHRAE Standard 90.1 amendment is permitted because it would result in a significant additional amount of energy savings, is technologically feasible and economically justified.

[1] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

[2] All references to EPCA in this document refer to the statute as amended through the Infrastructure Investment and Jobs Act, Public Law 117–58 (Nov. 15, 2021).

[3] Additionally, for water-cooled and glycol-cooled CRACs, NSenCOP includes power adders to account for power that would be consumed in field installations by pumps and heat rejection component (*e.g.*, cooling tower or dry cooler) fans. *See* section III.C of this NOPR for further discussion of the evaluation of differences between SCOP and NSenCOP.

DOE normally performs multiple in-depth analyses to determine whether there is clear and convincing evidence to support more stringent energy conservation standards (*i.e.,* whether more stringent standards would produce significant additional conservation of energy and be technologically feasible and economically justified). However, as discussed in this notice in section V.A, due to the lack of available market and performance data, DOE is unable to conduct the analysis necessary to evaluate the potential energy savings or evaluate whether more stringent standards would be technologically feasible or economically justified, with sufficient certainty. Therefore, in accordance with the statutory provisions discussed in this section and elsewhere in this document, DOE is proposing amended energy conservation standards for CRACs corresponding to the efficiency levels specified for CRACs in ASHRAE Standard 90.1–2019. The proposed standards, which are expressed in NSenCOP, are presented in Table I–1 and Table I–2. These proposed standards, if adopted, would apply to all CRACs listed in Table I–1 and Table I–2 manufactured in, or imported into, the United States starting on the tentative compliance date of 360 days after the publication date of the final rule adopting amended energy conservation standards. *See* section V.D of this NOPR for a discussion on the applicable lead-times considered to determine this compliance date.

TABLE I–1—PROPOSED ENERGY CONSERVATION STANDARDS FOR FLOOR-MOUNTED CRACS

Equipment type	Net sensible cooling capacity [4]	Minimum NSenCOP efficiency		Net sensible cooling capacity	Minimum NSenCOP efficiency	
		Downflow	Upflow ducted		Upflow non-ducted	Horizontal flow
Air-Cooled	<80,000 Btu/h [5]	2.70	2.67	<65,000 Btu/h	2.16	2.65
	≥80,000 Btu/h and <295,000 Btu/h.	2.58	[6] 2.55	≥65,000 Btu/h and <240,000 Btu/h.	2.04	2.55
	≥295,000 Btu/h and <930,000 Btu/h.	2.36	2.33	≥240,000 Btu/h and <760,000 Btu/h.	1.89	2.47
Air-Cooled with Fluid Economizer.	<80,000 Btu/h	2.70	2.67	<65,000 Btu/h	[6] 2.09	2.65
	≥80,000 Btu/h and <295,000 Btu/h.	2.58	[6] 2.55	≥65,000 Btu/h and <240,000 Btu/h.	[6] 1.99	2.55
	≥295,000 Btu/h and <930,000 Btu/h.	2.36	2.33	≥240,000 Btu/h and <760,000 Btu/h.	1.81	2.47
Water-Cooled	<80,000 Btu/h	2.82	2.79	<65,000 Btu/h	2.43	2.79
	≥80,000 Btu/h and <295,000 Btu/h.	2.73	[6] 2.70	≥65,000 Btu/h and <240,000 Btu/h.	2.32	2.68
	≥295,000 Btu/h and <930,000 Btu/h.	2.67	2.64	≥240,000 Btu/h and <760,000 Btu/h.	2.20	2.60
Water-Cooled with Fluid Economizer.	<80,000 Btu/h	2.77	2.74	<65,000 Btu/h	2.35	2.71
	≥80,000 Btu/h and <295,000 Btu/h.	2.68	[6] 2.65	≥65,000 Btu/h and <240,000 Btu/h.	2.24	2.60
	≥295,000 Btu/h and <930,000 Btu/h.	2.61	2.58	≥240,000 Btu/h and <760,000 Btu/h.	2.12	2.54
Glycol-Cooled	<80,000 Btu/h	2.56	2.53	<65,000 Btu/h	2.08	2.48
	≥80,000 Btu/h and <295,000 Btu/h.	2.24	2.21	≥65,000 Btu/h and <240,000 Btu/h.	1.90	2.18
	≥295,000 Btu/h and <930,000 Btu/h.	2.21	2.18	≥240,000 Btu/h and <760,000 Btu/h.	1.81	2.18
Glycol-Cooled with Fluid Economizer.	<80,000 Btu/h	2.51	2.48	<65,000 Btu/h	2.00	2.44
	≥80,000 Btu/h and <295,000 Btu/h.	2.19	2.16	≥65,000 Btu/h and <240,000 Btu/h.	1.82	2.10
	≥295,000 Btu/h and <930,000 Btu/h.	2.15	2.12	≥240,000 Btu/h and <760,000 Btu/h.	1.73	2.10

TABLE I–2—PROPOSED ENERGY CONSERVATION STANDARDS FOR CEILING-MOUNTED CRACS

Equipment type	Net sensible cooling capacity	Minimum NSenCOP efficiency	
		Ducted	Non-ducted
Air-Cooled with Free Air Discharge Condenser	<29,000 Btu/h	2.05	2.08
	≥29,000 Btu/h and <65,000 Btu/h	2.02	2.05
	≥65,000 Btu/h	1.92	1.94

[4] For downflow and upflow-ducted CRACs, the NSCC measured per AHRI 1360–2017 and the latest draft of AHRI 1360 is higher than the NSCC measured per the current Federal test procedure (which references ANSI/ASHRAE 127–2007). Therefore, to ensure equipment currently covered by Federal standards is not removed from coverage, DOE translated the currently applicable upper capacity limit for these classes (760,000 Btu/h) to NSCC as measured per AHRI 1360–2017 and the latest draft of AHRI 1360, resulting in a crosswalked upper capacity boundary of 930,000 Btu/h. Consequently, DOE has used 930,000 Btu/h as the translated upper capacity limit for downflow and upflow-ducted CRACs in the analysis presented in this notice. For up-flow non-ducted CRACs, because there is no change in return air temperature conditions between ANSI/ASHRAE 127–2007 and AHRI 1360-Draft, the capacity boundaries in ASHRAE Standard 90.1–2019 remain the same as those specified in the current Federal standards, and DOE correspondingly proposes to retain the current capacity boundaries. For horizontal-flow CRACs, DOE does not currently prescribe standards; therefore, a crosswalk of current capacity boundaries is not applicable. See section III.C.5 of this NOPR for further discussion of DOE's crosswalk analysis of capacity boundaries for CRACs.

[5] Btu/h refers to ''British thermal units per hour.''

[6] The proposed standard for this equipment class is of equivalent stringency to the currently applicable Federal standard—the proposed level is a translation from the current metric (SCOP) to the proposed metric (NSenCOP) and aligns with the corresponding level in ASHRAE Standard 90.1.

TABLE I–2—PROPOSED ENERGY CONSERVATION STANDARDS FOR CEILING-MOUNTED CRACS—Continued

Equipment type	Net sensible cooling capacity	Minimum NSenCOP efficiency	
		Ducted	Non-ducted
Air-Cooled with Free Air Discharge Condenser and Fluid Economizer.	<29,000 Btu/h	2.01	2.04
	≥29,000 Btu/h and <65,000 Btu/h	1.97	2.00
	≥65,000 Btu/h	1.87	1.89
Air-Cooled with Ducted Condenser	<29,000 Btu/h	1.86	1.89
	≥29,000 Btu/h and <65,000 Btu/h	1.83	1.86
	≥65,000 Btu/h	1.73	1.75
Air-Cooled with Ducted Condenser and Fluid Economizer.	<29,000 Btu/h	1.82	1.85
	≥29,000 Btu/h and <65,000 Btu/h	1.78	1.81
	≥65,000 Btu/h	1.68	1.70
Water-Cooled	<29,000 Btu/h	2.38	2.41
	≥29,000 Btu/h and <65,000 Btu/h	2.28	2.31
	≥65,000 Btu/h	2.18	2.20
Water-Cooled with Fluid Economizer	<29,000 Btu/h	2.33	2.36
	≥29,000 Btu/h and <65,000 Btu/h	2.23	2.26
	≥65,000 Btu/h	2.13	2.16
Glycol-Cooled	<29,000 Btu/h	1.97	2.00
	≥29,000 Btu/h and <65,000 Btu/h	1.93	1.98
	≥65,000 Btu/h	1.78	1.81
Glycol-Cooled with Fluid Economizer	<29,000 Btu/h	1.92	1.95
	≥29,000 Btu/h and <65,000 Btu/h	1.88	1.93
	≥65,000 Btu/h	1.73	1.76

II. Introduction

The following section briefly discusses the statutory authority underlying this proposed rule, as well as some of the relevant historical background related to the establishment of energy conservation standards for CRACs.

A. Authority

EPCA, Public Law 94–163 (42 U.S.C. 6291–6317, as codified), among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part C of EPCA, added by Public Law 95–619, Title IV, section 441(a) (42 U.S.C. 6311–6317, as codified), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This covered equipment includes small, large, and very large commercial package air conditioning and heating equipment, which includes CRACs, the subject of this document. (42 U.S.C. 6311(1)(B)–(D))

Under EPCA, the energy conservation program consists essentially of four parts: (1) Testing; (2) labeling; (3) the establishment of Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

Federal energy efficiency requirements for covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption in limited circumstances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. (42 U.S.C. 6297(d); 42 U.S.C. 6316(a); 42 U.S.C. 6316(b)(2)(D))

Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of covered equipment. (42 U.S.C. 6314) Manufacturers of covered equipment must use the Federal test procedures as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(b); 42 U.S.C. 6296), and (2) making representations about the energy use or efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE uses these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. The DOE test procedures for CRACs appear at 10 CFR part 431, subpart F.

DOE is to consider amending the energy efficiency standards for certain types of commercial and industrial equipment, including the equipment at issue in this document, whenever ASHRAE amends the standard levels or design requirements prescribed in ASHRAE Standard 90.1, and at a minimum, every six years. (42 U.S.C. 6313(a)(6)(A)–(C)) ASHRAE Standard 90.1 sets industry energy efficiency levels for small, large, and very large commercial package air-conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks (collectively ''ASHRAE equipment''). For each type of listed equipment, EPCA directs that if ASHRAE amends ASHRAE Standard 90.1, DOE must adopt amended standards at the new ASHRAE efficiency levels, unless DOE determines, supported by clear and convincing evidence,[7] that adoption of a more stringent level would produce significant additional conservation of energy and would be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)) If DOE makes such a determination, it must publish a

[7] The clear and convincing threshold is a heightened standard, and would only be met where the Secretary has an abiding conviction, based on available facts, data, and DOE's own analyses, that it is highly probable an amended standard would result in a significant additional amount of energy savings, and is technologically feasible and economically justified. *American Public Gas Association* v. *U.S. Dep't of Energy,* No. 20–1068, 2022 WL 151923, at *4 (D.C. Cir. January 18, 2022) (citing *Colorado* v. *New Mexico,* 467 U.S. 310, 316, 104 S.Ct. 2433, 81 L.Ed.2d 247 (1984)).

final rule to establish the more stringent standards. (42 U.S.C. 6313(a)(6)(B)(i))

Although EPCA does not explicitly define the term ''amended'' in the context of what type of revision to ASHRAE Standard 90.1 would trigger DOE's obligation, DOE's longstanding interpretation has been that the statutory trigger is an amendment to the standard applicable to that equipment under ASHRAE Standard 90.1 that increases the energy efficiency level for that equipment. *See* 72 FR 10038, 10042 (March 7, 2007). If the revised ASHRAE Standard 90.1 leaves the energy efficiency level unchanged (or lowers the energy efficiency level) as compared to the energy efficiency level specified by the uniform national standard adopted pursuant to EPCA, regardless of the other amendments made to the ASHRAE Standard 90.1 requirement (*e.g.,* the inclusion of an additional metric) DOE has stated that it does not have authority to conduct a rulemaking pursuant to 42 U.S.C. 6313(a)(6)(A) to consider a higher standard for that equipment, though this does not limit DOE's authority to consider higher standards as part of a six-year lookback rulemaking analysis (pursuant to 42 U.S.C. 6313(a)(6)(C); see discussion in the following paragraphs). *See* 74 FR 36312, 36313 (July 22, 2009) and 77 FR 28928, 28937 (May 16, 2012). If an amendment to ASHRAE Standard 90.1 changes the metric for the standard on which the Federal requirement was based, DOE performs a crosswalk analysis to determine whether the amended metric under ASHRAE Standard 90.1 results in an energy efficiency level more stringent than the current DOE standard.

Under EPCA, DOE must also review energy efficiency standards for CRACs every six years and either: (1) Issue a notice of determination that the standards do not need to be amended as adoption of a more stringent level is not supported by clear and convincing evidence; or (2) issue a notice of proposed rulemaking including new proposed standards based on certain criteria and procedures in subparagraph (B).[8] (42 U.S.C. 6313(a)(6)(C))

In deciding whether a more-stringent standard is economically justified, under either the provisions of 42 U.S.C. 6313(a)(6)(A) or 42 U.S.C. 6313(a)(6)(C), DOE must determine whether the benefits of the standard exceed its burdens. DOE must make this determination after receiving comments on the proposed standard, and by considering, to the maximum extent practicable, the following seven factors:

(1) The economic impact of the standard on manufacturers and consumers of products subject to the standard;

(2) The savings in operating costs throughout the estimated average life of the covered equipment in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered equipment that are likely to result from the standard;

(3) The total projected amount of energy savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the covered equipment likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy conservation; and

(7) Other factors the Secretary of Energy considers relevant.

(42 U.S.C. 6313(a)(6)(B)(ii)(I)–(VII))

Further, EPCA establishes a rebuttable presumption that an energy conservation standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product that complies with the standard will be less than three times the value of the energy (and, as applicable, water) savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii)) However, while this rebuttable presumption analysis applies to most commercial and industrial equipment (42 U.S.C. 6316(a)), it is not a required analysis for ASHRAE equipment (42 U.S.C. 6316(b)(1)).

EPCA also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6313(a)(6)(B)(iii)(I)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6313(a)(6)(B)(iii)(II)(aa))

B. Background

Current Standards

EPCA defines ''commercial package air conditioning and heating equipment'' as air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application. (42 U.S.C. 6311(8)(A); 10 CFR 431.92) EPCA further classifies ''commercial package air conditioning and heating equipment'' into categories based on cooling capacity (*i.e.,* small, large, and very large categories). (42 U.S.C. 6311(8)(B)–(D); 10 CFR 431.92) ''Small commercial package air conditioning and heating equipment'' means equipment rated below 135,000 Btu/h (cooling capacity). (42 U.S.C. 6311(8)(B); 10 CFR 431.92) ''Large commercial package air conditioning and heating equipment'' means equipment rated: (i) At or above 135,000 Btu/h; and (ii) below 240,000 Btu/h (cooling capacity). (42 U.S.C. 6311(8)(C); 10 CFR 431.92) ''Very large commercial package air conditioning and heating equipment'' means equipment rated: (i) At or above 240,000 Btu/h; and (ii) below 760,000 Btu/h (cooling capacity). (42 U.S.C. 6311(8)(D); 10 CFR 431.92)

Pursuant to its authority under EPCA (42 U.S.C. 6313(a)(6)(A)) and in response to updates to ASHRAE Standard 90.1, DOE has established the category of CRAC, which meets the EPCA definition of ''commercial package air conditioning and heating equipment,'' but which EPCA did not expressly identify. *See* 10 CFR 431.92 and 431.97. Within this additional equipment category, further distinctions are made at the equipment class level based on capacity and other equipment attributes.

DOE defines ''computer room air conditioner'' as commercial package air-conditioning and heating equipment (packaged or split) that is: Used in computer rooms, data processing rooms, or other information technology cooling applications; rated for SCOP and tested in accordance with 10 CFR 431.96, and is not a covered product under 42 U.S.C. 6291(1)–(2) and 42 U.S.C. 6292. A

[8] In relevant part, subparagraph (B) specifies that: (1) In making a determination of economic justification, DOE must consider, to the maximum extent practicable, the benefits and burdens of an amended standard based on the seven criteria described in EPCA; (2) DOE may not prescribe any standard that increases the energy use or decreases the energy efficiency of a covered equipment; and (3) DOE may not prescribe any standard that interested persons have established by a preponderance of evidence is likely to result in the unavailability in the United States of any product type (or class) of performance characteristics (including reliability, features, sizes, capacities, and volumes) that are substantially the same as those generally available in the United States. (42 U.S.C. 6313(a)(6)(B)(ii)–(iii))

computer room air conditioner may be provided with, or have as available options, an integrated humidifier, temperature, and/or humidity control of the supplied air, and reheating function. 10 CFR 431.92.

In a final rule published on May 16, 2012 (''May 2012 final rule''), DOE established energy conservation standards for CRACs. Compliance with standards was required for units manufactured (1) on and after October 29, 2012, for equipment classes with NSCC less than 65,000 Btu/h and (2) on or after October 29, 2013, for equipment classes with NSCC greater than or equal to 65,000 Btu/h and less than 760,000 Btu/h. 77 FR 28929, 28995. These standards are set forth in DOE's regulations at 10 CFR 431.97 and are repeated in Table II–1.

TABLE II–1—CURRENT FEDERAL ENERGY CONSERVATION STANDARDS

Equipment type	Net sensible cooling capacity	Minimum SCOP efficiency	
		Downflow	Upflow
Air-Cooled	<65,000 Btu/h	2.20	2.09
	≥65,000 Btu/h and <240,000 Btu/h	2.10	1.99
	≥240,000 Btu/h and <760,000 Btu/h	1.90	1.79
Water-Cooled	<65,000 Btu/h	2.60	2.49
	≥65,000 Btu/h and <240,000 Btu/h	2.50	2.39
	≥240,000 Btu/h and <760,000 Btu/h	2.40	2.29
Water-Cooled with a Fluid Economizer	<65,000 Btu/h	2.55	2.44
	≥65,000 Btu/h and <240,000 Btu/h	2.45	2.34
	≥240,000 Btu/h and <760,000 Btu/h	2.35	2.24
Glycol-Cooled	<65,000 Btu/h	2.50	2.39
	≥65,000 Btu/h and <240,000 Btu/h	2.15	2.04
	≥240,000 Btu/h and <760,000 Btu/h	2.10	1.99
Glycol-Cooled with a Fluid Economizer	<65,000 Btu/h	2.45	2.34
	≥65,000 Btu/h and <240,000 Btu/h	2.10	1.99
	≥240,000 Btu/h and <760,000 Btu/h	2.05	1.94

DOE's current equipment classes for CRACs are differentiated by condenser heat rejection medium (air-cooled, water-cooled, water-cooled with fluid economizer, glycol-cooled, or glycol-cooled with fluid economizer), NSCC (less than 65,000 Btu/h, greater than or equal to 65,000 Btu/h and less than 240,000 Btu/h, or greater than or equal to 240,000 Btu/h and less than 760,000 Btu/h), and direction of conditioned air over the cooling coil (upflow or downflow). 10 CFR 431.97.

DOE's test procedure for CRACs, set forth at 10 CFR 431.96, currently incorporates by reference ANSI/ASHRAE Standard 127–2007 (omit section 5.11), with additional provisions indicated in 10 CFR 431.96(c) and (e). The energy efficiency metric is SCOP for all CRAC equipment classes.

2. History of Standards Rulemaking for CRACs

As discussed, the energy conservation standards for CRACs were most recently amended in the May 2012 final rule. 77 FR 28928. The May 2012 final rule established equipment classes for CRACs and adopted energy conservation standards that correspond to the levels in the 2010 revision of ASHRAE Standard 90.1 (ASHRAE Standard 90.1–2010).

ASHRAE released the 2016 version of ASHRAE Standard 90.1 (ASHRAE Standard 90.1–2016) on October 26, 2016, which updated its test procedure reference for CRACs from ANSI/ASHRAE 127–2007 to AHRI Standard 1360–2016, ''Performance Rating of Computer and Data Processing Room Air Conditioners'' (AHRI 1360–2016), which in turn references ANSI/ASHRAE 127–2012, ''Method of Testing for Rating Computer and Data Processing Room Unitary Air Conditioners'' (ANSI/ASHRAE 127–2012). The energy efficiency metric for CRACs in AHRI 1360–2016 is NSenCOP. ASHRAE Standard 90.1–2016 established new equipment classes and added efficiency levels for horizontal-flow CRACs, disaggregated the upflow CRAC equipment classes into upflow ducted and upflow non-ducted equipment classes, and established different sets of efficiency levels for upflow ducted and upflow non-ducted equipment classes based on the corresponding rating conditions specified in AHRI 1360–2016.

DOE published a notice of data availability and request for information (NODA/RFI) in response to the amendments to the industry consensus standard contained in ASHRAE Standard 90.1–2016 in the **Federal Register** on September 11, 2019 (September 2019 NODA/RFI). 84 FR 48006. In the September 2019 NODA/RFI, DOE explained its methodology and assumptions to compare the current Federal standards for CRACs (in terms of SCOP) to the levels in ASHRAE Standard 90.1–2016 (in terms of NSenCOP) and requested comment on its methodology and results. 84 FR 48006, 48014–48019. DOE received a number of comments from interested parties in response to the September 2019 NODA/RFI.

On October 24, 2019, ASHRAE officially released for distribution and made public ASHRAE Standard 90.1–2019. ASHRAE Standard 90.1–2019 updated its test procedure reference for CRACs from AHRI 1360–2016 to AHRI 1360–2017, which also references ANSI/ASHRAE 127–2012. ASHRAE Standard 90.1–2019 maintained the equipment class structure for floor-mounted CRACs as established in ASHRAE Standard 90.1–2016, and updated the efficiency levels in ASHRAE Standard 90.1–2016 for all but three of those equipment classes. ASHRAE Standard 90.1–2019 also added classes for air-cooled CRACs with fluid economizers and a new table with new efficiency levels for ceiling-mounted CRAC equipment classes. The equipment in the horizontal-flow and ceiling-mounted classes is currently not subject to Federal standards set forth in 10 CFR 431.97.[9] In contrast, upflow and downflow air-cooled CRACs with fluid economizers are currently subject to the

[9] DOE issued a draft guidance document on October 7, 2015 to clarify that horizontal-flow and ceiling-mounted CRACs are covered equipment and are required to be tested under the current DOE test procedure for purposes of making representations of energy consumption. (Docket No. EERE–2014–BT–GUID–0022, No. 3, pp. 1–2)

Federal standards in 10 CFR 431.97 for air-cooled equipment classes.

DOE also published a NODA/RFI in response to the amendments in ASHRAE Standard 90.1–2019 and the comments received in response to the September 2019 NODA/RFI, in the **Federal Register** on September 25, 2020 (September 2020 NODA/RFI). 85 FR 60642. In the September 2020 NODA/RFI, DOE conducted a crosswalk analysis (similar to the September 2019 NODA/RFI) to compare the current Federal standards for CRACs (in terms of SCOP) to the levels in ASHRAE Standard 90.1–2019 (in terms of NSenCOP) and requested comment on its methodology and results. 85 FR 60642, 60653–60660. DOE received comments in response to the September 2020 NODA/RFI from the interested parties listed in Table II–2 of this NOPR regarding CRACs, the subject of this proposed rulemaking.

TABLE II–2—SEPTEMBER 2020 NODA/RFI WRITTEN COMMENTS

Commenter(s)	Reference in this NOPR	Commenter type
Appliance Standards Awareness Project, Natural Resources Defense Council, Northwest Energy Efficiency Alliance.	Joint Commenters	Efficiency Organizations.
Air-Conditioning, Heating, and Refrigeration Institute	AHRI	Trade Association.
California Investor Owned Utilities	CA IOUs	Utilities.
Rheem	Rheem	Manufacturer.
Trane	Trane	Manufacturer.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record for the September 2020 NODA/RFI docket.[10] For cases in which this NOPR references comments received in response to the September 2019 NODA/RFI (which are contained within a different docket), the full docket number (rather than just the document number) is included in the parenthetical reference.

Additionally, on February 6, 2022, DOE published a test procedure NOPR (February 2022 CRAC TP NOPR), in which DOE proposed an amended test procedure for CRACs that incorporates by reference the substance of the draft version of the latest AHRI 1360 standard, AHRI Standard 1360–202X, *Performance Rating of Computer and Data Processing Room Air Conditioners* (AHRI 1360–202X Draft) and adopts NSenCOP as the test metric for CRACs. 87 FR 6948. AHRI Standard 1360–202X Draft is in draft form and its text was provided to the Department for the purposes of review only during the drafting of the February 2022 CRAC TP NOPR. As stated in the February 2022 CRAC TP NOPR, DOE intends to update the reference to the final published version of AHRI 1360–202X Draft in the test procedure final rule, unless there are substantive changes between the draft and published versions, in which case DOE may adopt the substance of the AHRI 1360–202X Draft or provide additional opportunity for comment. 87 FR 6948, 6951.

III. Discussion of Changes in ASHRAE Standard 90.1–2019

A. General

As mentioned, DOE presented an efficiency crosswalk analysis in the September 2020 NODA/RFI to compare the stringency of the current Federal standards (represented in terms of SCOP based on the current DOE test procedure) for CRACs to the stringency of the efficiency levels for this equipment in ASHRAE Standard 90.1–2019 (represented in terms of NSenCOP and based on AHRI 1360–2017). 85 FR 60642, 60648 (Sept. 25, 2020). And in the February 2022 CRAC TP NOPR DOE proposed to incorporate by reference the latest draft version of AHRI Standard 1360, AHRI 1360–202X Draft, and adopt NSenCOP as the test metric in the DOE test procedure for CRACs. 87 FR 6948. Because the rating conditions specified in AHRI 1360–2017 and AHRI 1360–202X Draft are the same for the classes covered by DOE's crosswalk analysis (upflow ducted, upflow non-ducted, and downflow), the same crosswalk as described in the September 2020 NODA/RFI can be used to compare DOE's current SCOP-based CRAC standards to relevant NSenCOP values determined according to AHRI 1360–202X Draft.

In the September 2020 NODA/RFI, DOE's analysis focused on whether DOE had been triggered by ASHRAE Standard 90.1–2019 updates to minimum efficiency levels for CRACs and whether more-stringent standards were warranted. As discussed in detail in section III.C of this NOPR, DOE conducted a crosswalk analysis of the ASHRAE Standard 90.1–2019 standard levels (in terms of NSenCOP) and the corresponding current Federal energy conservation standards (in terms of SCOP) to compare the stringencies. 85 FR 60642, 60653–60658. DOE has tentatively determined that the updates in ASHRAE Standard 90.1–2019 increased the stringency of efficiency levels for 48 equipment classes and maintained equivalent levels for 6 equipment classes of CRACs relative to the current Federal standard. 85 FR 60642, 60658–60660. In addition, ASHRAE Standard 90.1–2019 includes efficiency levels for 18 classes of horizontal-flow CRACs and 48 classes of ceiling-mounted CRACs which are not currently subject to Federal standards and therefore require no crosswalk. As discussed in section V of this NOPR, DOE is proposing to adopt standards for horizontal-flow CRACs and ceiling-mounted CRACs.

Table III–1 show the equipment classes and efficiency levels for CRACs provided in ASHRAE Standard 90.1–2019 alongside the current Federal energy conservation standards. Table III–1 also displays the corresponding existing Federal equipment classes for clarity and indicates whether the updated levels in ASHRAE Standard 90.1–2019 trigger DOE's evaluation pursuant to 42 U.S.C. 6313(a)(6)(A) (*i.e.,* whether the update results in a standard level more stringent than the current Federal level). The remainder of this section explains DOE's methodology for evaluating the updated levels in ASHRAE Standard 90.1–2019 and addresses comments received regarding CRAC efficiency levels and associated analyses discussed in the September 2020 NODA/RFI.

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[10] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to develop energy conservation standards for CRACs. (Docket No. EERE–2020–BT–STD–0008, which is maintained at *www.regulations.gov*). The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

Table III-1: Energy Efficiency Levels for CRACs in ASHRAE Standard 90.1-2019 and the Corresponding Federal Energy Conservation Standards

ASHRAE Standard 90.1-2019 Equipment Class[1]	Current Federal Equipment Class[1]	Energy Efficiency Levels in ASHRAE Standard 90.1-2019[2]	Federal Energy Conservation Standards[2]	DOE Triggered by ASHRAE Standard 90.1-2019 Amendment?
Air-Cooled, <80,000 Btu/h, Downflow	Air-Cooled, <65,000 Btu/h, Downflow	2.70 NSenCOP	2.20 SCOP	Yes
Air-Cooled, <65,000 Btu/h, Horizontal-flow	N/A	2.65 NSenCOP	N/A	Yes[3]
Air-Cooled, <80,000 Btu/h, Upflow Ducted	Air-Cooled, <65,000 Btu/h, Upflow	2.67 NSenCOP	2.09 SCOP	Yes
Air-Cooled, <65,000 Btu/h, Upflow Non-Ducted	Air-Cooled, <65,000 Btu/h, Upflow	2.16 NSenCOP	2.09 SCOP	Yes
Air-Cooled, ≥80,000 and <295,000 Btu/h, Downflow	Air-Cooled, ≥65,000 and <240,000 Btu/h, Downflow	2.58 NSenCOP	2.10 SCOP	Yes
Air-Cooled, ≥65,000 and <240,000 Btu/h, Horizontal-flow	N/A	2.55 NSenCOP	N/A	Yes[3]
Air-Cooled, ≥80,000 and <295,000 Btu/h, Upflow Ducted	Air-Cooled, ≥65,000 and <240,000 Btu/h, Upflow	2.55 NSenCOP	1.99 SCOP	No[4]
Air-Cooled, ≥65,000 and <240,000 Btu/h, Upflow Non-Ducted	Air-Cooled, ≥65,000 and <240,000 Btu/h, Upflow	2.04 NSenCOP	1.99 SCOP	Yes
Air-Cooled, ≥295,000 Btu/h, Downflow	Air-Cooled, ≥240,000 Btu/h and <760,000 Btu/h, Downflow	2.36 NSenCOP	1.90 SCOP	Yes
Air-Cooled, ≥240,000 Btu/h, Horizontal-flow	N/A	2.47 NSenCOP	N/A	Yes[3]
Air-Cooled, ≥295,000 Btu/h, Upflow Ducted	Air-Cooled, ≥240,000 Btu/h and <760,000 Btu/h, Upflow	2.33 NSenCOP	1.79 SCOP	Yes
Air-Cooled, ≥240,000 Btu/h, Upflow Non-ducted	Air-Cooled, ≥240,000 Btu/h and <760,000 Btu/h, Upflow	1.89 NSenCOP	1.79 SCOP	Yes
Air-Cooled with fluid economizer, <80,000 Btu/h, Downflow	Air-Cooled, <65,000 Btu/h, Downflow	2.70 NSenCOP	2.20 SCOP	Yes[5]
Air-Cooled with fluid economizer, <65,000 Btu/h, Horizontal-flow	N/A	2.65 NSenCOP	N/A	Yes[3]
Air-Cooled with fluid economizer, <80,000 Btu/h, Upflow Ducted	Air-Cooled, <65,000 Btu/h, Upflow	2.67 NSenCOP	2.09 SCOP	Yes[5]
Air-Cooled with fluid economizer, <65,000 Btu/h, Upflow Non-Ducted	Air-Cooled, <65,000 Btu/h, Upflow	2.09 NSenCOP	2.09 SCOP	No[4]

Air-Cooled with fluid economizer, ≥80,000 and <295,000 Btu/h, Downflow	Air-Cooled, ≥65,000 and <240,000 Btu/h, Downflow	2.58 NSenCOP	2.10 SCOP	Yes[5]
Air-Cooled with fluid economizer, ≥65,000 and <240,000 Btu/h, Horizontal-flow	N/A	2.55 NSenCOP	N/A	Yes[3]
Air-Cooled with fluid economizer, ≥80,000 and <295,000 Btu/h, Upflow Ducted	Air-Cooled, ≥65,000 and <240,000 Btu/h, Upflow	2.55 NSenCOP	1.99 SCOP	No[4]
Air-Cooled with fluid economizer, ≥65,000 and <240,000 Btu/h, Upflow Non-Ducted	Air-Cooled, ≥65,000 and <240,000 Btu/h, Upflow	1.99 NSenCOP	1.99 SCOP	No[4]
Air-Cooled with fluid economizer, ≥295,000 Btu/h, Downflow	Air-Cooled, ≥240,000 Btu/h and <760,000 Btu/h, Downflow	2.36 NSenCOP	1.90 SCOP	Yes[5]
Air-Cooled with fluid economizer, ≥240,000 Btu/h, Horizontal-flow	N/A	2.47 NSenCOP	N/A	Yes[3]
Air-Cooled with fluid economizer, ≥295,000 Btu/h, Upflow Ducted	Air-Cooled, ≥240,000 Btu/h and <760,000 Btu/h, Upflow	2.33 NSenCOP	1.79 SCOP	Yes[5]
Air-Cooled with fluid economizer, ≥240,000 Btu/h, Upflow Non-ducted	Air-Cooled, ≥240,000 Btu/h and <760,000 Btu/h, Upflow	1.81 NSenCOP	1.79 SCOP	Yes[5]
Water-Cooled, <80,000 Btu/h, Downflow	Water-Cooled, <65,000 Btu/h, Downflow	2.82 NSenCOP	2.60 SCOP	Yes
Water-Cooled, <65,000 Btu/h, Horizontal-flow	N/A	2.79 NSenCOP	N/A	Yes[3]
Water-Cooled, <80,000 Btu/h, Upflow Ducted	Water-Cooled, <65,000 Btu/h, Upflow	2.79 NSenCOP	2.49 SCOP	Yes
Water-Cooled, <65,000 Btu/h, Upflow Non-ducted	Water-Cooled, <65,000 Btu/h, Upflow	2.43 NSenCOP	2.49 SCOP	Yes
Water-Cooled, ≥80,000 and <295,000 Btu/h, Downflow	Water-Cooled, ≥65,000 and <240,000 Btu/h, Downflow	2.73 NSenCOP	2.50 SCOP	Yes
Water-Cooled, ≥65,000 and <240,000 Btu/h, Horizontal-flow	N/A	2.68 NSenCOP	N/A	Yes[3]
Water-Cooled, ≥80,000 and <295,000 Btu/h, Upflow Ducted	Water-Cooled, ≥65,000 and <240,000 Btu/h, Upflow	2.70 NSenCOP	2.39 SCOP	No[4]
Water-Cooled, ≥65,000 and <240,000 Btu/h, Upflow Non-ducted	Water-Cooled, ≥65,000 and <240,000 Btu/h, Upflow	2.32 NSenCOP	2.39 SCOP	Yes
Water-Cooled, ≥295,000 Btu/h, Downflow	Water-Cooled, ≥240,000 Btu/h and <760,000 Btu/h, Downflow	2.67 NSenCOP	2.40 SCOP	Yes
Water-Cooled, ≥240,000 Btu/h, Horizontal-flow	N/A	2.60 NSenCOP	N/A	Yes[3]
Water-Cooled, ≥295,000 Btu/h, Upflow Ducted	Water-Cooled, ≥240,000 Btu/h and	2.64 NSenCOP	2.29 SCOP	Yes

	<760,000 Btu/h, Upflow			
Water-Cooled, ≥240,000 Btu/h, Upflow Non-ducted	Water-Cooled, ≥240,000 Btu/h and <760,000 Btu/h, Upflow	2.20 NSenCOP	2.29 SCOP	Yes
Water-Cooled with fluid economizer, <80,000 Btu/h, Downflow	Water-Cooled with fluid economizer, <65,000 Btu/h, Downflow	2.77 NSenCOP	2.55 SCOP	Yes
Water-Cooled with fluid economizer, <65,000 Btu/h, Horizontal-flow	N/A	2.71 NSenCOP	N/A	Yes[3]
Water-Cooled with fluid economizer, <80,000 Btu/h, Upflow Ducted	Water-Cooled with fluid economizer, <65,000 Btu/h, Upflow	2.74 NSenCOP	2.44 SCOP	Yes
Water-Cooled with fluid economizer, <65,000 Btu/h, Upflow Non-ducted	Water-Cooled with fluid economizer, <65,000 Btu/h, Upflow	2.35 NSenCOP	2.44 SCOP	Yes
Water-Cooled with fluid economizer, ≥80,000 and <295,000 Btu/h, Downflow	Water-Cooled with fluid economizer, ≥65,000 and <240,000 Btu/h, Downflow	2.68 NSenCOP	2.45 SCOP	Yes
Water-Cooled with fluid economizer, ≥65,000 and <240,000 Btu/h, Horizontal-flow	N/A	2.60 NSenCOP	N/A	Yes[3]
Water-Cooled with fluid economizer, ≥80,000 and <295,000 Btu/h, Upflow Ducted	Water-Cooled with fluid economizer, ≥65,000 and <240,000 Btu/h, Upflow	2.65 NSenCOP	2.34 SCOP	No[4]
Water-Cooled with fluid economizer, ≥65,000 and <240,000 Btu/h, Upflow Non-ducted	Water-Cooled with fluid economizer, ≥65,000 and <240,000 Btu/h, Upflow	2.24 NSenCOP	2.34 SCOP	Yes
Water-Cooled with fluid economizer, ≥295,000 Btu/h, Downflow	Water-Cooled with fluid economizer, ≥240,000 Btu/h and <760,000 Btu/h, Downflow	2.61 NSenCOP	2.35 SCOP	Yes
Water-Cooled with fluid economizer, ≥240,000 Btu/h, Horizontal-flow	N/A	2.54 NSenCOP	N/A	Yes[3]
Water-Cooled with fluid economizer, ≥295,000 Btu/h, Upflow Ducted	Water-Cooled with fluid economizer, ≥240,000 Btu/h and <760,000 Btu/h, Upflow	2.58 NSenCOP	2.24 SCOP	Yes
Water-Cooled with fluid economizer, ≥240,000 Btu/h, Upflow Non-ducted	Water-Cooled with fluid economizer, ≥240,000 Btu/h and <760,000 Btu/h, Upflow	2.12 NSenCOP	2.24 SCOP	Yes
Glycol-Cooled, <80,000 Btu/h, Downflow	Glycol-Cooled, <65,000 Btu/h, Downflow	2.56 NSenCOP	2.50 SCOP	Yes

Glycol-Cooled, <65,000 Btu/h, Horizontal-flow	N/A	2.48 NSenCOP	N/A	Yes[3]
Glycol-Cooled, <80,000 Btu/h, Upflow Ducted	Glycol-Cooled, <65,000 Btu/h, Upflow Ducted	2.53 NSenCOP	2.39 SCOP	Yes
Glycol-Cooled, <65,000 Btu/h, Upflow Non-ducted	Glycol-Cooled, <65,000 Btu/h, Upflow Non-ducted	2.08 NSenCOP	2.39 SCOP	Yes
Glycol-Cooled, ≥80,000 and <295,000 Btu/h, Downflow	Glycol-Cooled, ≥65,000 and <240,000 Btu/h, Downflow	2.24 NSenCOP	2.15 SCOP	Yes
Glycol-Cooled, ≥65,000 and <240,000 Btu/h, Horizontal-flow	N/A	2.18 NSenCOP	N/A	Yes[3]
Glycol-Cooled, ≥80,000 and <295,000 Btu/h, Upflow Ducted	Glycol-Cooled, ≥65,000 and <240,000 Btu/h, Upflow	2.21 NSenCOP	2.04 SCOP	Yes
Glycol-Cooled, ≥65,000 and <240,000 Btu/h, Upflow Non-ducted	Glycol-Cooled, ≥65,000 and <240,000 Btu/h, Upflow	1.90 NSenCOP	2.04 SCOP	Yes
Glycol-Cooled, ≥295,000 Btu/h, Downflow	Glycol-Cooled, ≥240,000 Btu/h and <760,000 Btu/h, Downflow	2.21 NSenCOP	2.10 SCOP	Yes
Glycol-Cooled, ≥240,000 Btu/h, Horizontal-flow	N/A	2.18 NSenCOP	N/A	Yes[3]
Glycol-Cooled, ≥295,000 Btu/h, Upflow Ducted	Glycol-Cooled, ≥240,000 Btu/h and <760,000 Btu/h, Upflow Ducted	2.18 NSenCOP	1.99 SCOP	Yes
Glycol-Cooled, ≥240,000 Btu/h, Upflow Non-ducted	Glycol-Cooled, ≥240,000 Btu/h and <760,000 Btu/h, Upflow Non-ducted	1.81 NSenCOP	1.99 SCOP	Yes
Glycol-Cooled with fluid economizer, <80,000 Btu/h, Downflow	Glycol-Cooled with fluid economizer, <65,000 Btu/h, Downflow	2.51 NSenCOP	2.45 SCOP	Yes
Glycol-Cooled with fluid economizer, <65,000 Btu/h, Horizontal-flow	N/A	2.44 NSenCOP	N/A	Yes[3]
Glycol-Cooled with fluid economizer, <80,000 Btu/h, Upflow Ducted	Glycol-Cooled with fluid economizer, <65,000 Btu/h, Upflow Ducted	2.48 NSenCOP	2.34 SCOP	Yes
Glycol-Cooled with fluid economizer, <65,000 Btu/h, Upflow Non-ducted	Glycol-Cooled with fluid economizer, <65,000 Btu/h, Upflow Non-ducted	2.00 NSenCOP	2.34 SCOP	Yes
Glycol-Cooled with fluid economizer, ≥80,000 and <295,000 Btu/h, Downflow	Glycol-Cooled with fluid economizer, ≥65,000 and <240,000 Btu/h, Downflow	2.19 NSenCOP	2.10 SCOP	Yes
Glycol-Cooled with fluid economizer, ≥65,000 and <240,000 Btu/h, Horizontal-flow	N/A	2.10 NSenCOP	N/A	Yes[3]

Glycol-Cooled with fluid economizer, ≥80,000 and <295,000 Btu/h, Upflow Ducted	Glycol-Cooled with fluid economizer, ≥65,000 and <240,000 Btu/h, Upflow	2.16 NSenCOP	1.99 SCOP	Yes
Glycol-Cooled with fluid economizer, ≥65,000 and <240,000 Btu/h, Upflow Non-ducted	Glycol-Cooled with fluid economizer, ≥65,000 and <240,000 Btu/h, Upflow	1.82 NSenCOP	1.99 SCOP	Yes
Glycol-Cooled with fluid economizer, ≥295,000 Btu/h, Downflow	Glycol-Cooled with fluid economizer, ≥240,000 Btu/h and <760,000 Btu/h, Downflow	2.15 NSenCOP	2.05 SCOP	Yes
Glycol-Cooled with fluid economizer, ≥240,000 Btu/h, Horizontal-flow	N/A	2.10 NSenCOP	N/A	Yes[3]
Glycol-Cooled with fluid economizer, ≥295,000 Btu/h, Upflow Ducted	Glycol-Cooled with fluid economizer, ≥240,000 Btu/h and <760,000 Btu/h, Upflow Ducted	2.12 NSenCOP	1.94 SCOP	Yes
Glycol-Cooled with fluid economizer, ≥240,000 Btu/h, Upflow Non-ducted	Glycol-Cooled with fluid economizer, ≥240,000 Btu/h and <760,000 Btu/h, Upflow Non-ducted	1.73 NSenCOP	1.94 SCOP	Yes
Ceiling-mounted, Air-cooled with free air discharge condenser, Ducted, <29,000 Btu/h	N/A	2.05 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with free air discharge condenser, Ducted, ≥29,000 Btu/h and <65,000 Btu/h	N/A	2.02 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with free air discharge condenser, Ducted, ≥65,000 Btu/h	N/A	1.92 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with free air discharge condenser, Non-ducted, <29,000 Btu/h	N/A	2.08 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with free air discharge condenser, Non-ducted, ≥29,000 Btu/h and <65,000 Btu/h	N/A	2.05 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with free air discharge condenser, Non-ducted, ≥65,000 Btu/h	N/A	1.94 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with free air discharge condenser with fluid economizer, Ducted, <29,000 Btu/h	N/A	2.01 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with free air discharge condenser with	N/A	1.97 NSenCOP	N/A	Yes[6]

fluid economizer, Ducted, ≥29,000 Btu/h and <65,000 Btu/h				
Ceiling-mounted, Air-cooled with free air discharge condenser with fluid economizer, Ducted, ≥65,000 Btu/h	N/A	1.87 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with free air discharge condenser with fluid economizer, Non-ducted, <29,000 Btu/h	N/A	2.04 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with free air discharge condenser with fluid economizer, Non-ducted, ≥29,000 Btu/h and <65,000 Btu/h	N/A	2.00 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with free air discharge condenser with fluid economizer, Non-ducted, ≥65,000 Btu/h	N/A	1.89 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with ducted condenser, Ducted, <29,000 Btu/h	N/A	1.86 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with ducted condenser, Ducted, ≥29,000 Btu/h and <65,000 Btu/h	N/A	1.83 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with ducted condenser, Ducted, ≥65,000 Btu/h	N/A	1.73 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with ducted condenser, Non-ducted, <29,000 Btu/h	N/A	1.89 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with ducted condenser, Non-ducted, ≥29,000 Btu/h and <65,000 Btu/h	N/A	1.86 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with ducted condenser, Non-ducted, ≥65,000 Btu/h	N/A	1.75 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with ducted condenser with fluid economizer, Ducted, <29,000 Btu/h	N/A	1.82 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with ducted condenser with fluid economizer, Ducted, ≥29,000 Btu/h and <65,000 Btu/h	N/A	1.78 NSenCOP	N/A	Yes[6]

Ceiling-mounted, Air-cooled with ducted condenser with fluid economizer, Ducted, ≥65,000 Btu/h	N/A	1.68 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with ducted condenser with fluid economizer, Non-ducted, <29,000 Btu/h	N/A	1.85 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with ducted condenser with fluid economizer, Non-ducted, ≥29,000 Btu/h and <65,000 Btu/h	N/A	1.81 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Air-cooled with ducted condenser with fluid economizer, Non-ducted, ≥65,000 Btu/h	N/A	1.70 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Water-cooled, Ducted, <29,000 Btu/h	N/A	2.38 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Water-cooled, Ducted, ≥29,000 Btu/h and <65,000 Btu/h	N/A	2.28 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Water-cooled, Ducted, ≥65,000 Btu/h	N/A	2.18 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Water-cooled, Non-ducted, <29,000 Btu/h	N/A	2.41 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Water-cooled, Non-ducted, ≥29,000 Btu/h and <65,000 Btu/h	N/A	2.31 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Water-cooled, Non-ducted, ≥65,000 Btu/h	N/A	2.20 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Water-cooled with fluid economizer, Ducted, <29,000 Btu/h	N/A	2.33 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Water-cooled with fluid economizer, Ducted, ≥29,000 Btu/h and <65,000 Btu/h	N/A	2.23 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Water-cooled with fluid economizer, Ducted, ≥65,000 Btu/h	N/A	2.13 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Water-cooled with fluid economizer, Non-ducted, <29,000 Btu/h	N/A	2.36 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Water-cooled with fluid economizer, Non-ducted,	N/A	2.26 NSenCOP	N/A	Yes[6]

≥29,000 Btu/h and <65,000 Btu/h				
Ceiling-mounted, Water-cooled with fluid economizer, Non-ducted, ≥65,000 Btu/h	N/A	2.16 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Glycol-cooled, Ducted, <29,000 Btu/h	N/A	1.97 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Glycol-cooled, Ducted, ≥29,000 Btu/h and <65,000 Btu/h	N/A	1.93 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Glycol-cooled, Ducted, ≥65,000 Btu/h	N/A	1.78 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Glycol-cooled, Non-ducted, <29,000 Btu/h	N/A	2.00 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Glycol-cooled, Non-ducted, ≥29,000 Btu/h and <65,000 Btu/h	N/A	1.98 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Glycol-cooled, Non-ducted, ≥65,000 Btu/h	N/A	1.81 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Glycol-cooled with fluid economizer, Ducted, <29,000 Btu/h	N/A	1.92 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Glycol-cooled with fluid economizer, Ducted, ≥29,000 Btu/h and <65,000 Btu/h	N/A	1.88 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Glycol-cooled with fluid economizer, Ducted, ≥65,000 Btu/h	N/A	1.73 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Glycol-cooled with fluid economizer, Non-ducted, <29,000 Btu/h	N/A	1.95 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Glycol-cooled with fluid economizer, Non-ducted, ≥29,000 Btu/h and <65,000 Btu/h	N/A	1.93 NSenCOP	N/A	Yes[6]
Ceiling-mounted, Glycol-cooled with fluid economizer, Non-ducted, ≥65,000 Btu/h	N/A	1.76 NSenCOP	N/A	Yes[6]

[1] Note that equipment classes specified in ASHRAE Standard 90.1-2019 do not necessarily correspond to the equipment classes defined in DOE's regulations. Capacity ranges in ASHRAE Standard 90.1-2019 are specified in terms of NSCC, as measured according to AHRI 1360-2017 (which, as discussed, would produce the same results for the crosswalked classes as AHRI 1360-202X Draft). Capacity ranges in current Federal equipment classes are specified in terms of NSCC, as measured according to ANSI/ASHRAE 127-2007. As discussed in section III.C, for certain equipment classes AHRI 1360-2017 (and AHRI 1360-202X Draft) results in increased NSCC measurements as compared to the NSCC measured in accordance with ANSI/ASHRAE 127-2007. Therefore, some CRACs would switch classes (i.e., move into a higher capacity equipment class) if the equipment class boundaries are not changed

accordingly. Consequently, DOE performed a "capacity crosswalk" analysis to translate the capacity boundaries for certain equipment classes.

[2] For CRACs, ASHRAE Standard 90.1-2019 adopted efficiency levels in terms of NSenCOP based on test procedures in AHRI 1360-2017, while DOE's current standards are in terms of SCOP based on the test procedures in ANSI/ASHRAE 127-2007. DOE performed a crosswalk analysis to compare the stringency of the ASHRAE Standard 90.1-2019 efficiency levels with the current Federal standards. See section III.C of this NOPR for further discussion on the crosswalk analysis performed for CRACs.

[3] Horizontal-flow CRACs are new equipment classes included in ASHRAE Standard 90.1-2016 and ASHRAE Standard 90.1-2019 (and not subject to current Federal standards), but DOE does not have any data to indicate the market share of horizontal-flow units. In the absence of data regarding market share and efficiency distribution, DOE is unable to estimate potential savings for horizontal-flow equipment classes.

[4] The crosswalk analysis indicates that there is no difference in stringency of efficiency levels for this class between ASHRAE Standard 90.1-2019 and the current Federal standard.

[5] Air-cooled CRACs with fluid economizers are new equipment classes included in ASHRAE Standard 90.1-2019 and are currently subject to the Federal standard for air-cooled CRACs. DOE does not have data regarding market share for air-cooled CRACs with fluid economizers. Although DOE is unable to disaggregate the estimated potential savings for these equipment classes, energy savings for these equipment classes are included in the savings presented for air-cooled CRACs.

[6] Ceiling-mounted CRACs are new equipment classes in ASHRAE Standard 90.1-2019 (and not subject to current Federal standards), and DOE does not have any data to indicate the market share of ceiling-mounted units. In the absence of data regarding market share and efficiency distribution, DOE is unable to estimate potential savings for ceiling-mounted equipment classes.

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B. Test Procedure

As noted in section III.A of this document, ASHRAE adopted efficiency levels for all CRAC equipment classes denominated in terms of NSenCOP in ASHRAE Standard 90.1–2019 (measured per AHRI 1360–2017) whereas DOE's current standards are denominated in terms of SCOP (measured per ANSI/ASHRAE 127–2007). ASHRAE Standard 90.1–2019 incorporates by references AHRI 1360–2017. In the February 2022 CRAC TP NOPR, DOE proposed to adopt an amended test procedure for CRACs that incorporates by reference the substance of the updated draft version of the AHRI 1360 Standard, AHRI 1360–202X Draft. 87 FR 6948. Because the rating conditions specified in AHRI 1360–202X Draft and AHRI 1360–2017 are the same for the classes for which DOE requires a crosswalk (upflow ducted, upflow non-ducted, and downflow), DOE has tentatively concluded that the NSenCOP levels specified for equipment classes in ASHRAE Standard 90.1–2019 as measured per AHRI 1360–2017 would remain unchanged if measured per AHRI 1360–202X Draft. Therefore, in the crosswalk analysis presented in the following sections, DOE considers that the ASHRAE Standard 90.1–2019 NSenCOP levels are measured per AHRI 1360–202X Draft.

C. Methodology for Efficiency and Capacity Crosswalk Analyses

For the efficiency crosswalk, DOE analyzed the CRAC equipment classes in ASHRAE Standard 90.1–2019 that are currently subject to Federal standards (*i.e.,* all upflow and downflow classes).[11] As discussed in the subsequent paragraphs, for certain CRAC classes, ASHRAE Standard 90.1–2019 specifies classes that disaggregate the current Federal equipment classes into additional classes.

For upflow CRACs, ASHRAE Standard 90.1–2019 includes separate sets of efficiency levels for ducted and non-ducted units. This reflects the differences in rating conditions for upflow ducted and upflow non-ducted units in AHRI 1360–202X Draft (*e.g.,* return air temperature and external static pressure (ESP). The current Federal test procedure does not specify different rating conditions for upflow ducted as compared to upflow non-ducted CRACs, and DOE's current standards set forth in 10 CFR 431.97 also do not differentiate between upflow ducted and upflow non-ducted CRACs. For the purpose of the efficiency crosswalk analysis, DOE converted the single set of current Federal SCOP standards, which encompasses all upflow CRACs, to two sets of ''crosswalked'' NSenCOP levels for both the upflow ducted and upflow non-ducted classes present in ASHRAE Standard 90.1–2019.

Similarly, for air-cooled CRACs, ASHRAE Standard 90.1–2019 includes separate sets of efficiency levels for equipment with and without fluid economizers. Specifically, ASHRAE Standard 90.1–2019 specifies less stringent efficiency levels for equipment with fluid economizers, reflecting the additional pressure drop in the indoor air stream from the presence of the fluid economizer that the indoor fan must overcome. DOE's current standards set forth in 10 CFR 431.97 do not distinguish air-cooled CRACs based on the presence of fluid economizers. Therefore, DOE's crosswalk analysis converted the single set of current Federal standards for air-cooled classes (in terms of SCOP) to two sets of standards in terms of NSenCOP for air-cooled classes distinguishing CRACs with and without fluid economizers. However, there is no difference between the rating conditions in AHRI 1360–202X Draft for air-cooled CRACs with and without fluid economizers, so the results of the crosswalk analysis converting the current standards to NSenCOP standards are identical for these classes.

As explained previously, the efficiency levels for CRACs in ASHRAE Standard 90.1–2019 rely on a different metric (NSenCOP) and test procedure (AHRI 1360–2017, and now by extension AHRI 1360–202X Draft) than

[11] ASHRAE Standard 90.1–2019 includes efficiency levels for horizontal-flow and ceiling-mounted classes of CRACs. DOE does not currently prescribe standards for horizontal-flow or ceiling-mounted classes, so these classes were not included in the crosswalk analysis.

the metric and test procedure required under the current Federal standards (relying on SCOP and ANSI/ASHRAE 127–2007, respectively). AHRI 1360–202X Draft and ANSI/ASHRAE 127–2007 notably also specify different rating conditions. These differences are listed in Table III–2, and are discussed in detail in sections III.C.1 through III.C.4 of this document.

TABLE III–2—DIFFERENCES IN RATING CONDITIONS BETWEEN DOE'S CURRENT TEST PROCEDURE AND AHRI STANDARD 1360–202X DRAFT

Test parameter	Affected equipment categories	Current DOE test procedure (ANSI/ASHRAE 127–2007)		AHRI 1360–202X Draft	
Return air dry-bulb temperature (RAT)	Upflow ducted and downflow	75 °F dry-bulb temperature		85 °F dry-bulb temperature.	
Entering water temperature (EWT)	Water-cooled	86 °F		83 °F	
ESP (varies with NSCC)	Upflow ducted	<20 kW	0.8 in H_2O	<80 kBtu/h	0.3 in H_2O.
		≥20 kW	1.0 in H_2O	≥80 kBtu/h and <295 kBtu/h.	0.4 in H_2O.
				≥295 kBtu/h and <760 kBtu/h.	0.5 in H_2O.
Adder for heat rejection fan and pump power (add to total power consumption).	Water-cooled and glycol-cooled.	No added power consumption for heat rejection fan and pump		5 percent of NSCC for water-cooled CRACs. 7.5 percent of NSCC for glycol-cooled CRACs.	

The differences between these specified rating conditions in AHRI 1360–202X Draft compared to ANSI/ASHRAE 127–2007 impacts the capacity boundaries for CRAC equipment classes. The capacity values that bound the CRAC equipment classes in ASHRAE Standard 90.1–2019 and in DOE's current standards at 10 CFR 431.97 are in terms of NSCC. In ASHRAE Standard 90.1–2019, the capacity boundaries for downflow and upflow-ducted CRAC equipment classes are increased relative to the boundaries of the analogous classes in the current Federal standards. For certain equipment classes, NSCC values determined according to AHRI 1360–202X Draft's different rating conditions are higher than the NSCC values determined according to ANSI/ASHRAE 127–2007. Therefore, the test conditions in AHRI 1360–202X Draft result in an increased NSCC value for certain equipment classes, as compared to the NSCC measured in accordance with the current Federal test procedure requirement. This means that some CRACs would switch classes (*i.e.,* move into a higher capacity equipment class) if the test conditions in AHRI 1360–202X Draft are used without shifting current equipment class boundaries to match the impact of the changes in rating conditions.

The stringency of both the ASHRAE Standard 90.1 efficiency level and the current Federal standard decreases as the equipment class capacity increases for upflow and downflow CRAC classes. Therefore, class switching would subject some CRAC models to an efficiency level under ASHRAE Standard 90.1–2019 that is less stringent than the standard level that is applicable to that model under the current Federal requirements. Lowering the stringency of the efficiency level in the Federal requirements is impermissible under EPCA's anti-backsliding provision at 42 U.S.C. 6313(a)(6)(B)(iii)(I).

To evaluate the capacity boundaries under ASHRAE Standard 90.1–2019 and allow for an appropriate comparison between current Federal efficiency standards and the efficiency levels in ASHRAE Standard 90.1–2019 and to avoid potential backsliding, a capacity crosswalk was conducted to translate the NSCC boundaries that separate equipment classes in the Federal efficiency standards to account for the expected increase in measured NSCC values for affected equipment classes (*i.e.,* equipment classes with test procedure changes that increase NSCC). DOE's capacity crosswalk calculated the increases in the capacity boundaries of affected equipment classes from the Federal efficiency standards if ASHRAE Standard 90.1–2019 were adopted, to evaluate this equipment class switching issue and to avoid backsliding that would occur from class switching if capacity boundaries did not account for the changed rating conditions in ASHRAE Standard 90.1–2019.

Both the efficiency and capacity crosswalk analyses have a similar structure and the data for both analyses came from several of the same sources. The crosswalk analyses were informed by numerous sources, including public manufacturer literature, manufacturer performance data obtained through non-disclosure agreements (NDAs), results from DOE's testing of two CRAC units, and DOE's Compliance Certification Database [12] for CRACs. DOE analyzed each test procedure change (*e.g.,* change in rating conditions) independently, and used the available data to determine an aggregated percentage by which that change impacted efficiency (SCOP) and/or NSCC. Updated SCOP levels and NSCC equipment class boundaries were calculated for each class (as applicable) by combining the percentage changes for every test procedure change applicable to that class.

The following sub-sections describe the approaches used to analyze the impacts on the measured efficiency and capacity of each difference in rating conditions between DOE's current test procedure and AHRI 1360–202X Draft. As discussed, the crosswalk analysis methodology described in the following sub-sections is the same as presented in the September 2020 NODA/RFI. No additional data sources were added to the analysis for this NOPR.

1. Increase in Return Air Dry-Bulb Temperature From 75 °F to 85 °F

ANSI/ASHRAE 127–2007, which is referenced by DOE's current test procedure, specifies a return air dry-

[12] DOE's Compliance Certification Database is available at: *www.regulations.doe.gov/ccms.*

bulb temperature (RAT) of 75 °F for testing all CRACs. AHRI 1360–202X Draft specifies a RAT of 85 °F for upflow ducted and downflow CRACs, but specifies an RAT for upflow non-ducted units of 75 °F.

SCOP and NSCC both increase with increasing RAT for two reasons. First, a higher RAT increases the cooling that must be done for the air to approach its dew point temperature (*i.e.,* the temperature at which water vapor will condense if there is any additional cooling). Second, a higher RAT will tend to raise the evaporating temperature of the refrigerant, which in turn raises the temperature of fin and tube surfaces in contact with the air—the resulting reduction in the portion of the heat exchanger surface that is below the air's dew point temperature reduces the potential for water vapor to condense on these surfaces. This is seen in product specifications which show that the sensible heat ratio [13] is consistently higher at a RAT of 85 °F than at 75 °F. Because increasing RAT increases the fraction of total cooling capacity that is sensible cooling (rather than latent cooling), the NSCC increases. Further, because SCOP is calculated with NSCC in the numerator of the calculation, an increase in NSCC also inherently increases SCOP.

To analyze the magnitude of the impacts of increasing RAT for upflow ducted and downflow CRACs on SCOP and NSCC, DOE gathered data from three separate sources and aggregated the results for each crosswalk analysis. First, DOE used product specifications for several CRAC models that provide SCOP and NSCC ratings for RATs ranging from 75 °F to 95 °F. Second, DOE analyzed manufacturer performance data obtained under NDAs that showed the performance impact of individual test condition changes, including the increase in RAT. Third, DOE used results from testing two CRAC units: One air-cooled upflow ducted and one air-cooled downflow unit. DOE combined the results of these sources to find the aggregated increases in SCOP and NSCC due to the increase in RAT. The increase in SCOP due to the change in RAT was found to be approximately 19 percent, and the increase in NSCC was found to be approximately 22 percent.

[13] ''Sensible heat ratio'' is the ratio of sensible cooling capacity to the total cooling capacity. The total cooling capacity includes both sensible cooling capacity (cooling associated with reduction in temperature) and latent cooling capacity (cooling associated with dehumidification).

2. Decrease in Entering Water Temperature for Water-Cooled CRACs

ANSI/ASHRAE 127–2007, which is referenced by DOE's current test procedure, specifies an entering water temperature (EWT) of 86 °F for water-cooled CRACs, while AHRI 1360–202X Draft specifies an entering water temperature of 83 °F. A decrease in the EWT for water-cooled CRACs increases the temperature difference between the water and hot refrigerant in the condenser coil, thus increasing cooling capacity and decreasing compressor power. To analyze the impact of this decrease in EWT on SCOP and NSCC, DOE analyzed manufacturer data obtained through NDAs and a publicly-available presentation from a major CRAC manufacturer and calculated a SCOP increase of approximately 2 percent and an NSCC increase of approximately 1 percent.

3. Changes in External Static Pressure Requirements for Upflow Ducted CRACs

For upflow ducted CRACs, AHRI 1360–202X Draft specifies lower ESP requirements than ANSI/ASHRAE 127–2007, which is referenced in DOE's current test procedure. The ESP requirements in all CRAC industry test standards vary with NSCC; however, the capacity bins (*i.e.,* capacity ranges over which each ESP requirement applies) in ANSI/ASHRAE 127–2007 are different from those in AHRI 1360–202X Draft. Testing with a lower ESP decreases the indoor fan power input without a corresponding decrease in NSCC, thus increasing the measured SCOP. Additionally, the reduction in fan heat entering the indoor air stream that results from lower fan power also slightly increases NSCC, further increasing SCOP.

To analyze the impacts on measured SCOP and NSCC of the changes in ESP requirements between DOE's current test procedure and AHRI 1360–202X Draft, DOE aggregated data from its analysis of fan power consumption changes, manufacturer data obtained through NDAs, and results from DOE testing. Notably, the impact of changes in ESP requirements on SCOP and NSCC was calculated separately in DOE's analysis for each capacity range specified in AHRI 1360–202X Draft (*i.e.,* <80 kBtu/h, 80–295 kBtu/h, and ≥295 kBtu/h). As discussed in III.C of this document, NSCC values determined according to ANSI/ASHRAE 127–2007 are lower than NSCC values determined according to AHRI 1360–202X Draft for certain CRAC classes, including upflow-ducted classes. The increase in NSCC in AHRI 1360–202X Draft also impacts the ESP requirements in AHRI 1360–202X Draft for upflow-ducted units, because the ESP requirements are specified based on NSCC. Different ESP requirements impact the stringency of the test—as discussed, testing with a lower ESP increases the measured SCOP. AHRI 1360–202X Draft addresses this issue by updating the NSCC capacity bin boundaries associated with the applicable ESP. For the purposes of the efficiency and capacity crosswalk analyses in this NOPR, DOE used the adjusted capacity boundaries in AHRI 1360–202X Draft for upflow ducted classes presented in Table III–4 (as discussed in section III.C.5 of this document) to specify the applicable ESP requirement.

DOE conducted an analysis to estimate the change in fan power consumption due to the changes in ESP requirements using performance data and product specifications for 77 upflow CRAC models with certified SCOP ratings at or near the current applicable SCOP standard level in DOE's Compliance Certification Database. Using the certified SCOP and NSCC values, DOE determined each model's total power consumption for operation at the rating conditions specified in DOE's current test procedure. DOE then used fan performance data for each model to estimate the change in indoor fan power that would result from the lower ESP requirements in AHRI 1360–202X Draft and modified the total power consumption for each model by the calculated value. For several models, detailed fan performance data were not available, so DOE used fan performance data for comparable air conditioning units with similar cooling capacity, fan drive, and fan motor horsepower.

DOE also received manufacturer data (obtained through NDAs) showing the impact on efficiency and NSCC of the change in ESP requirements. Additionally, DOE conducted tests on an upflow-ducted CRAC at ESPs of 1 in. H_2O and 0.4 in. H_2O (the applicable ESP requirements specified in ANSI/ASHRAE 127–2007 and AHRI 1360–202X Draft, respectively), and included the results of those tests in this analysis.

For each of the three capacity ranges for which ESP requirements are specified in AHRI 1360–202X Draft, Table III–3 shows the approximate aggregated percentage increases in SCOP and NSCC associated with the decreased ESP requirements specified in AHRI 1360–202X Draft for upflow ducted units.

TABLE III–3—PERCENTAGE INCREASE IN SCOP AND NSCC FROM DECREASES IN EXTERNAL STATIC PRESSURE REQUIREMENTS FOR UPFLOW DUCTED UNITS BETWEEN DOE'S CURRENT TEST PROCEDURE AND AHRI 1360–202X DRAFT

Net sensible cooling capacity range (kBtu/h) *	ESP requirements in DOE's current test procedure (ANSI/ASHRAE 127–2007) (in H_2O)	ESP requirements in AHRI 1360–202X draft (in H_2O)	Approx. average percentage increase in SCOP	Approx. average percentage increase in NSCC
<65	0.8	0.3	7	2
≥65 to <240:				
≥65 to <68.2 **	0.8	0.4	*** 8	*** 2
≥68.2 to <240 **	1			
≥240 to <760	1	0.5	6	2

* These boundaries are consistent with the boundaries in ANSI/ASHRAE 127–2007 and differ from the boundaries in AHRI 1360–202X Draft, which reflect the expected capacity increases for upflow-ducted and downflow equipment classes at the AHRI 1360–202X Draft return air temperature test conditions.

** 68.2 kBtu/h is equivalent to 20 kW, which is the capacity value that separates ESP requirements in ANSI/ASHRAE 127–2007, which is referenced in DOE's current test procedure.

*** This average percentage increase is an average across upflow ducted CRACs with net sensible cooling capacity ≥65 and <240 kBtu/h, including models with capacity <20 kW and ≥20 kW. DOE's Compliance Certification Database shows that most of the upflow CRACs with a net sensible cooling capacity ≥65 kBtu/h and <240 kBtu/h have a net sensible cooling capacity ≥20 kW.

4. Power Adder To Account for Pump and Heat Rejection Fan Power in NSenCOP Calculation for Water-Cooled and Glycol-Cooled CRACs

Energy consumption for heat rejection components for air-cooled CRACs (*i.e.,* condenser fan motor(s)) is measured in the current DOE test procedure for CRACs; however, for water-cooled and glycol-cooled CRACs energy consumption for heat rejection components is not measured because these components (*i.e.,* water/glycol pump, dry cooler/cooling tower fan(s)) are not considered to be part of the CRAC unit. ANSI/ASHRAE 127–2007, which is referenced in DOE's current test procedure, does not include any factor in the calculation of SCOP to account for the power consumption of heat rejection components for water-cooled and glycol-cooled CRACs.

In contrast, AHRI 1360–202X Draft specifies to increase the measured total power input for CRACs to account for the power consumption of fluid pumps and heat rejection fans. Specifically, Sections 6.3.1.3 and 6.3.1.4 of AHRI 1360–202X Draft specify to add a percentage of the measured NSCC (5 percent for water-cooled CRACs and 7.5 percent for glycol-cooled CRACs) in kW to the total power input used to calculate NSenCOP. DOE calculated the impact of these additions on SCOP using Equation 1:

$$SCOP_1 = \frac{SCOP}{1 + (x * SCOP)}$$

Equation 1

Where, x is equal to 5 percent for water-cooled CRACs and 7.5 percent for glycol-cooled CRACs, and $SCOP_1$ is the SCOP value adjusted for the energy consumption of heat rejection pumps and fans.

5. Calculating Overall Changes in Measured Efficiency and Capacity From Test Procedure Changes

Different CRAC equipment classes are subject to different combinations of the test procedure changes between DOE's current test procedure and AHRI 1360–202X Draft analyzed in the crosswalk analyses. To combine the impact of the changes in rating conditions, DOE calculated the crosswalked NSenCOP levels and translated NSCC boundaries as detailed in the following sections.

(a) Calculation of Crosswalked NSenCOP Levels

To combine the impact on SCOP of the changes to rating conditions (*i.e.,* increase in RAT, decrease in condenser EWT for water-cooled units, and decrease of the ESP requirements for upflow ducted units), DOE multiplied together the calculated adjustment factors representing the measurement changes corresponding to each individual rating condition change, as applicable, as shown in Equation 2. These adjustment factors are equal to 100 percent (which represents SCOP measured per the current Federal test procedure) plus the calculated percent change in measured efficiency.

To account for the impact of the adder for heat rejection pump and fan power for water-cooled and glycol-cooled units, DOE used Equation 3. Hence, DOE determined crosswalked NSenCOP levels corresponding to the current Federal SCOP standards for each CRAC equipment class using the following two equations.

$$NSenCOP_1 = SCOP * (1 + x_1) * (1 + x_2) * (1 + x_3)$$

Equation 2

$$NSenCOP = \frac{NSenCOP_1}{1 + (x_4 * NSenCOP_1)}$$

Equation 3

In these equations, $NSenCOP_1$ refers to a partially-crosswalked NSenCOP level that incorporates the impacts of changes in RAT, condenser EWT, and indoor fan ESP (as applicable), but not the impact of adding the heat rejection pump and fan power; x_1, x_2, and x_3 represent the percentage change in SCOP due to changes in RAT, condenser EWT, and indoor fan ESP requirements, respectively; and x_4 is equal to 5 percent for water-cooled equipment classes and 7.5 percent for glycol-cooled equipment classes. For air-cooled classes, x_4 is equal to 0 percent; therefore, for these classes, NSenCOP is equal to $NSenCOP_1$.

(b) Calculation of Translated NSCC Boundaries

To combine the impact on NSCC of the changes to rating conditions, DOE used a methodology similar to that used for determining the impact on SCOP. To determine adjusted NSCC equipment class boundaries, DOE multiplied together the calculated adjustment factors representing the measurement changes corresponding to each individual rating condition change, as applicable, as shown in Equation 4. These adjustment factors are equal to 100 percent (which represents NSCC measured per the current Federal test procedure) plus the calculated percent change in measured NSCC. In this equation, *Boundary* refers to the original NSCC boundaries (*i.e.,* 65,000 Btu/h, 240,000 Btu/h, or 760,000 Btu/h as determined according to ANSI/ASHRAE 127–2007), $Boundary_1$ refers to the updated NSCC boundaries as determined according to AHRI 1360–202X Draft, and y_1, y_2, and y_3 represent the percentage changes in NSCC due to changes in RAT, condenser EWT, and indoor fan ESP requirements, respectively.

$$Boundary_1 = Boundary * (1 + y_1) * (1 + y_2) * (1 + y_3)$$

Equation 4

As mentioned, ASHRAE Standard 90.1–2019 and AHRI 1360–202X Draft include updated equipment class capacity boundaries for only upflow-ducted and downflow equipment classes. The updated class ranges for these categories are <80,000 Btu/h, ≥80,000 Btu/h and <295,000 Btu/h, and ≥295,000 Btu/h. In previous versions of ASHRAE Standard 90.1, these ranges are <65,000 Btu/h, ≥65,000 Btu/h and <240,000 Btu/h, and ≥240,000 Btu/h. The capacity range boundaries for upflow non-ducted classes were left unchanged at 65,000 Btu/h and 240,000 Btu/h in ASHRAE Standard 90.1–2019.

DOE's capacity crosswalk analysis indicates that the primary driver for increasing NSCC is increasing RAT. The increases in RAT in AHRI 1360–202X Draft, as compared to ANSI/ASHRAE 127–2007, only apply to upflow ducted and downflow equipment classes. Based on the analysis performed for this document, DOE found that all the equipment class boundaries in ASHRAE Standard 90.1–2019, which are in increments of 5,000 Btu/h, vary by no more than 1.4 percent of the boundary translations calculated from DOE's capacity crosswalk. DOE considers this 1.4 percent variance to be de minimis because the only difference appears to be rounding—when rounded to increments of 5,000 Btu/h, DOE's crosswalk boundary translations are equivalent to the equipment class boundaries in ASHRAE 90.1–2019. As such, to align DOE's analysis more closely with ASHRAE Standard 90.1–2019, DOE has used the equipment class boundaries in ASHRAE Standard 90.1–2019 as the preliminary translated boundaries for the crosswalk analysis. Use of the equipment class boundaries from ASHRAE Standard 90.1–2019 allows for an appropriate comparison between the energy efficiency levels and equipment classes specified in ASHRAE Standard 90.1 and those in the current DOE standards, while addressing the backsliding potential from class switching discussed previously.

ASHRAE Standard 90.1–2019 does not include an upper capacity limit for coverage of CRACs. DOE's current standards are applicable only to CRACs with an NSCC less than 760,000 Btu/h, which is the upper boundary for very large commercial package air conditioning and heating equipment, the statutory limits on DOE's authority.[14] 10 CFR 431.97(e). However, the change in the ratings conditions in AHRI 1360–202X Draft means this boundary (calculated according to the current Federal test procedure, which references ANSI/ASHRAE 127–2007) must be expressed in its calculated equivalent for AHRI 1360–202X Draft under the crosswalk analysis. Otherwise, equipment currently covered and subject to the Federal standards may be removed from coverage, violating the anti-backsliding provision.

In order to account for all equipment currently subject to the Federal standards, DOE calculated the AHRI 1360–202X Draft equivalent of the 760,000 Btu/h equipment class boundary for certain equipment classes as part of its capacity crosswalk analysis. This translation of the upper boundary of the equipment classes applies only for downflow and upflow-ducted classes (the classes for which the RAT increase applies). Consistent with the adjustments made in ASHRAE Standard 90.1–2019, DOE averaged the crosswalked capacity results across the affected equipment classes, and rounded to the nearest 5,000 Btu/h. Following this approach, DOE has derived 930,000 Btu/h as the translated upper capacity limit for downflow and upflow-ducted CRACs in the analysis presented in this notice. The 930,000

[14] At the time EPCA was amended to include the definition for very large commercial package air conditioning and heating equipment, equipment covered by ASHRAE that met the statutory definition of ''commercial package air conditioning and heating equipment'' was generally comfort cooling equipment, which was rated according to the corresponding test procedures at 80 °F/67 °F indoor air. The upper boundary of 760,000 Btu/h specified by EPCA (42 U.S.C. 6311(8)(D)) reflects a capacity rating at 80 °F/67 °F indoor air. As discussed, DOE has tentatively translated the 760,000 Btu/h limit to an equivalent rating that is based on testing according to the conditions specified in the updated industry test procedure for CRAC. Consequently, DOE does not have authority to set standards for models with a capacity beyond the 760,000 Btu/h limit specified by EPCA, as translated to a rating measured per AHRI 1360–202X Draft.

Btu/h upper capacity limit (as measured per AHRI 1360–202X Draft) used in the crosswalk analysis is equivalent to the 760,000 Btu/h upper capacity limit (as measured per ANSI/ASHRAE 127–2007) established in the current DOE standards.

D. Crosswalk Results

The ''crosswalked'' DOE efficiency levels (expressed in terms of NSenCOP) and equipment class capacity boundaries (adjusted to account for changes in rating conditions) were then compared with the NSenCOP efficiency levels and capacity boundaries specified in ASHRAE Standard 90.1–2019 to determine the stringency of ASHRAE Standard 90.1–2019 requirements relative to current Federal standards.

Table III–4 presents the preliminary results for the crosswalk analyses (see section III.C of this document for a discussion of the methodology for the crosswalk analyses). The last column in the table, labeled ''Crosswalk Comparison,'' indicates whether the ASHRAE Standard 90.1–2019 levels are less stringent, equivalent to, or more stringent than the current Federal standards, based on DOE's analysis.

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Table III-4: Crosswalk Results

Condenser System Type	Airflow Configuration	Current NSCC Range (kBtu/h)	Current Federal Standard (SCOP)	Test Procedure Changes Affecting Efficiency*	Crosswalked NSCC Range (kBtu/h)	Crosswalked Current Federal Standard (NSenCOP)	ASHRAE Standard 90.1-2019 NSenCOP Level	Crosswalk Comparison
Air-cooled	Downflow	<65	2.20	Return air dry-bulb temperature	<80	2.62	2.70	More Stringent
Air-cooled	Downflow	≥65 and <240	2.10		≥80 and <295	2.50	2.58	More Stringent
Air-cooled	Downflow	≥240 and <760	1.90		≥295 and <930	2.26	2.36	More Stringent
Air-cooled with fluid economizer	Downflow	<65	2.20		<80	2.62	2.70	More Stringent
Air-cooled with fluid economizer	Downflow	≥65 and <240	2.10		≥80 and <295	2.50	2.58	More Stringent
Air-cooled with	Downflow	≥240 and <760	1.90		≥295 and <930	2.26	2.36	More Stringent

fluid economizer								
Water-cooled	Downflow	<65	2.60	Return air dry-bulb temperature Condenser entering water temperature Add allowance for heat rejection components to total power input	<80	2.73	2.82	More Stringent
Water-cooled	Downflow	≥65 and <240	2.50		≥80 and <295	2.63	2.73	More Stringent
Water-cooled	Downflow	≥240 and <760	2.40		≥295 and <930	2.54	2.67	More Stringent
Water-cooled with fluid economizer	Downflow	<65	2.55		<80	2.68	2.77	More Stringent
Water-cooled with fluid economizer	Downflow	≥65 and <240	2.45		≥80 and <295	2.59	2.68	More Stringent
Water-cooled with fluid economizer	Downflow	≥240 and <760	2.35		≥295 and <930	2.50	2.61	More Stringent
Glycol-cooled	Downflow	<65	2.50	Add allowance for heat rejection components to total power input	<80	2.43	2.56	More Stringent
Glycol-cooled	Downflow	≥65 and <240	2.15		≥80 and <295	2.15	2.24	More Stringent
Glycol-cooled	Downflow	≥240 and <760	2.10		≥295 and <930	2.11	2.21	More Stringent
Glycol-cooled with fluid economizer	Downflow	<65	2.45		<80	2.39	2.51	More Stringent
Glycol-cooled with fluid economizer	Downflow	≥65 and <240	2.10		≥80 and <295	2.11	2.19	More Stringent
Glycol-cooled with fluid economizer	Downflow	≥240 and <760	2.05		≥295 and <930	2.06	2.15	More Stringent
Air-cooled	Upflow Ducted	<65	2.09	Return air dry-bulb temperature ESP requirements	<80	2.65	2.67	More Stringent
Air-cooled	Upflow Ducted	≥65 and <240	1.99		≥80 and <295	2.55	2.55	Equivalent
Air-cooled	Upflow Ducted	≥240 and <760	1.79		≥295 and <930	2.26	2.33	More Stringent

Air-cooled with fluid economizer	Upflow Ducted	<65	2.09		<80	2.65	2.67	More Stringent
Air-cooled with fluid economizer	Upflow Ducted	≥65 and <240	1.99		≥80 and <295	2.55	2.55	Equivalent
Air-cooled with fluid economizer	Upflow Ducted	≥240 and <760	1.79		≥295 and <930	2.26	2.33	More Stringent
Water-cooled	Upflow Ducted	<65	2.49	Return air dry-bulb temperature Condenser entering water temperature ESP requirements Add allowance for heat rejection components to total power input	<80	2.77	2.79	More Stringent
Water-cooled	Upflow Ducted	≥65 and <240	2.39		≥80 and <295	2.70	2.70	Equivalent
Water-cooled	Upflow Ducted	≥240 and <760	2.29		≥295 and <930	2.56	2.64	More Stringent
Water-cooled with fluid economizer	Upflow Ducted	<65	2.44		<80	2.72	2.74	More Stringent
Water-cooled with fluid economizer	Upflow Ducted	≥65 and <240	2.34		≥80 and <295	2.65	2.65	Equivalent
Water-cooled with fluid economizer	Upflow Ducted	≥240 and <760	2.24		≥295 and <930	2.51	2.58	More Stringent
Glycol-cooled	Upflow Ducted	<65	2.39	Return air dry-bulb temperature ESP requirements Add allowance for heat rejection components to total power input	<80	2.47	2.53	More Stringent
Glycol-cooled	Upflow Ducted	≥65 and <240	2.04		≥80 and <295	2.19	2.21	More Stringent
Glycol-cooled	Upflow Ducted	≥240 and <760	1.99		≥295 and <930	2.11	2.18	More Stringent
Glycol-cooled with fluid economizer	Upflow Ducted	<65	2.34		<80	2.43	2.48	More Stringent
Glycol-cooled with fluid	Upflow Ducted	≥65 and <240	1.99		≥80 and <295	2.14	2.16	More Stringent

economizer								
Glycol-cooled with fluid economizer	Upflow Ducted	≥240 and <760	1.94		≥295 and <930	2.07	2.12	More Stringent
Air-cooled	Upflow Non-Ducted	<65	2.09	No changes	<65	2.09	2.16	More Stringent
Air-cooled	Upflow Non-Ducted	≥65 and <240	1.99		≥65 and <240	1.99	2.04	More Stringent
Air-cooled	Upflow Non-Ducted	≥240 and <760	1.79		≥240 and <760	1.79	1.89	More Stringent
Air-cooled with fluid economizer	Upflow Non-Ducted	<65	2.09		<65	2.09	2.09	Equivalent
Air-cooled with fluid economizer	Upflow Non-Ducted	≥65 and <240	1.99		≥65 and <240	1.99	1.99	Equivalent
Air-cooled with fluid economizer	Upflow Non-Ducted	≥240 and <760	1.79		≥240 and <760	1.79	1.81	More Stringent
Water-cooled	Upflow Non-Ducted	<65	2.49	Condenser entering water temperature Add allowance for heat rejection components to total power input	<65	2.25	2.43	More Stringent
Water-cooled	Upflow Non-Ducted	≥65 and <240	2.39		≥65 and <240	2.17	2.32	More Stringent
Water-cooled	Upflow Non-Ducted	≥240 and <760	2.29		≥240 and <760	2.09	2.20	More Stringent
Water-cooled with fluid economizer	Upflow Non-Ducted	<65	2.44		<65	2.21	2.35	More Stringent
Water-cooled with fluid economizer	Upflow Non-Ducted	≥65 and <240	2.34		≥65 and <240	2.13	2.24	More Stringent
Water-cooled with fluid	Upflow Non-Ducted	≥240 and <760	2.24		≥240 and <760	2.05	2.12	More Stringent

economizer								
Glycol-cooled	Upflow Non-Ducted	<65	2.39	Add allowance for heat rejection components to total power input	<65	2.03	2.08	More Stringent
Glycol-cooled	Upflow Non-Ducted	≥65 and <240	2.04		≥65 and <240	1.77	1.90	More Stringent
Glycol-cooled	Upflow Non-Ducted	≥240 and <760	1.99		≥240 and <760	1.73	1.81	More Stringent
Glycol-cooled with fluid economizer	Upflow Non-Ducted	<65	2.34		<65	1.99	2.00	More Stringent
Glycol-cooled with fluid economizer	Upflow Non-Ducted	≥65 and <240	1.99		≥65 and <240	1.73	1.82	More Stringent
Glycol-cooled with fluid economizer	Upflow Non-Ducted	≥240 and <760	1.94		≥240 and <760	1.69	1.73	More Stringent

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As indicated by the crosswalk, the standard levels established for CRACs in ASHRAE Standard 90.1–2019 are equivalent to the current Federal standards for six equipment classes and are more stringent than the current Federal standards for 48 equipment classes of CRACs. ASHRAE Standard 90.1–2019 also added 66 equipment classes of ceiling-mounted and horizontal-flow CRACs that did not require a crosswalk because there are currently no Federal standards for classes. As discussed in section V of this NOPR, DOE is proposing to adopt standards for horizontal-flow CRACs and ceiling-mounted CRACs. ASHRAE Standard 90.1–2019 also incorporates shifted capacity bin boundaries for upflow ducted and downflow CRAC equipment classes. DOE's crosswalk analysis indicates that these updated boundaries appropriately reflect the increase in NSCC that results from the changes in test procedure adopted under ASHRAE Standard 90.1–2019 and are equivalent to the capacity boundaries in the current Federal standards once those changes are accounted for (as discussed in previous sections).

E. Comments Received Regarding DOE's Crosswalk Methodology

DOE presented and requested comments on the crosswalk analysis and preliminary results in the September 2020 NODA/RFI. 85 FR 60642, 60653–60660 (Sept. 25, 2020).

AHRI and Joint Advocates agreed with DOE's crosswalk methodology and supported DOE's conclusion that ASHRAE Standard 90.1–2019 energy efficiency levels generally increase efficiency compared to current DOE Federal standards levels. (AHRI, No. 2 at p. 2; Joint Advocates, No. 6 at p. 2). AHRI noted that the AHRI members and DOE staff and consultants met extensively in 2018 to develop the crosswalk analysis. (AHRI, No. 2 at p. 2) DOE did not receive any other comments regarding the crosswalk analysis or the preliminary results.

For this NOPR, DOE relies on the crosswalk analysis and preliminary results as presented in the September 2020 NODA/RFI in which DOE identifies 48 equipment classes for which the ASHRAE Standard 90.1–2019 efficiency levels are more stringent than current DOE efficiency levels (expressed in NSenCOP), six equipment classes for which the ASHRAE Standard 90.1–2019 efficiency levels are equal to the current DOE efficiency levels, and 66 classes of CRACs that are not currently subject to DOE's standards but for which standards are specified in ASHRAE Standard 90.1–2019 (*i.e.,* horizontal-flow and ceiling-mounted classes).

IV. Methodology for Estimates of Potential Energy Savings From ASHRAE Standard 90.1–2019 Levels

In the September 2020 NODA/RFI DOE performed an analysis to determine the energy-savings potential of amending Federal standards to the amended ASHRAE levels for CRACs for which ASHRAE Standard 90.1–2019 specifies amended energy efficiency levels more stringent than the corresponding Federal energy conservation standards, as required under 42 U.S.C. 6313(a)(6)(A). 85 FR 60642, 60663 (Sept. 25, 2020). DOE's energy savings analysis was limited to equipment classes for which a market exists and for which sufficient data were available.

For the equipment classes where ASHRAE Standard 90.1–2019 specifies more-stringent levels than the

corresponding Federal energy conservation standard, DOE calculated the potential energy savings to the Nation associated with adopting ASHRAE Standard 90.1–2019 as the difference between a no-new-standards case projection (*i.e.,* without amended standards) and the ASHRAE Standard 90.1–2019 standards-case projection (*i.e.,* with adoption of ASHRAE Standard 90.1–2019 levels).

The national energy savings (NES) refers to cumulative lifetime energy savings for equipment purchased in a 30-year period that differs by equipment (*i.e.,* the compliance date differs by equipment class (*i.e.,* capacity) depending upon whether DOE is acting under the ASHRAE trigger or the 6-year-lookback (see 42 U.S.C. 6313(a)(6)(D)). In the standards case, equipment that is more efficient gradually replaces less-efficient equipment over time. This affects the calculation of the potential energy savings, which are a function of the total number of units in use and their efficiencies. Savings depend on annual shipments and equipment lifetime. Inputs to the energy savings analysis are presented in the following sections.

A. Annual Energy Use

The purpose of the energy use analysis is to assess the energy savings potential of different equipment efficiencies in the building types that utilize the equipment. The Federal standard and ASHRAE Standard 90.1–2019 levels are expressed in terms of an efficiency metric. For each equipment class, the description of how DOE developed estimates of annual energy consumption at the Federal baseline efficiency level and the ASHRAE Standard 90.1–2019 level can be found in section III.A.1 of the September 2020 NODA/RFI. 85 FR 60642, 60664–60666 (Sept. 25, 2020). In this NOPR, DOE briefly summarizes that analysis and responds to stakeholder comments. The annual unit energy consumption (UEC) estimates are displayed in Table IV–1 of this NOPR and form the basis of the national energy savings estimates discussed in section IV.E of this document.

1. Equipment Classes and Analytical Scope

In the September 2020 NODA/RFI, DOE conducted an energy savings analysis for the 42 CRAC classes that currently have both DOE standards and more-stringent standards under ASHRAE Standard 90.1–2019. 85 FR 60642, 60664 (Sept. 25, 2020). DOE was unable to identify market data that would allow for disaggregating results for the six equipment classes of air-cooled CRACs with fluid economizers that have ASHRAE Standard 90.1–2019 levels more stringent than current Federal standards. Furthermore, although ASHRAE Standard 90.1–2019 included levels for the 66 horizontal flow and ceiling-mounted equipment classes which currently are not subject to Federal standards, DOE was unable to identify market data that could be used to establish a market baseline for these classes in order to estimate energy savings at the time the September 2020 NODA/RFI was published. 85 FR 60642, 60663–60664 (Sept. 25, 2020). DOE did not receive any efficiency data in response to the September 2020 NODA/RFI, and is unaware of any publicly available data. Therefore, DOE was unable to develop a market baseline and estimate energy savings for the horizontal flow and ceiling mounted equipment classes for this NOPR. The UEC estimates (provided in Table IV–1) were only developed for equipment classes for which DOE could develop a market baseline; therefore, they do not include the horizontal flow and ceiling-mounted classes.

Efficiency Levels

DOE analyzed the energy savings potential of adopting ASHRAE Standard 90.1–2019 levels for CRAC equipment classes that currently have a federal standard and have an ASHRAE Standard 90.1–2019 standard more stringent than the current Federal standard. For each equipment class, energy savings are measured relative to the baseline (*i.e.,* the current Federal standard for that class). 85 FR 60642, 60664 (Sept. 25, 2020).

2. Analysis Method and Annual Energy Use Results

In the September 2020 NODA/RFI, to derive UECs for the equipment classes analyzed in this document, DOE started with the UECs based on the current DOE standards for downflow equipment classes as analyzed in the May 2012 final rule. DOE assumed that these UECs correspond to the NSenCOP that was derived through the crosswalk analysis (*i.e.,* ''Cross-walked Current Federal Standard'' column in Table III–4). DOE determined the UEC for the ASHRAE Standard 90.1–2019 level by dividing the baseline NSenCOP level by the NSenCOP for the ASHRAE Standard 90.1–2019 level and multiplied the resulting percentage by the baseline UEC. 85 FR 60642, 60664 (Sept. 25, 2020).

In the May 2012 final rule, DOE assumed that energy savings estimates derived for downflow equipment classes would be representative of upflow equipment classes, which differed by a fixed 0.11 SCOP. 77 FR 28928, 28954 (May 16, 2012). Because of the fixed 0.11 SCOP difference between upflow and downflow CRAC units in ASHRAE Standard 90.1–2013, DOE determined that the per-unit energy savings benefits for corresponding CRACs at higher efficiency levels could be represented using the 15 downflow equipment classes. *Id.* However, in this NOPR's analysis, the efficiency levels for the upflow non-ducted equipment classes do not differ from the downflow equipment class by a fixed amount. For the September 2020 NODA/RFI, DOE assumed that the fractional increase/decrease in NSenCOP between upflow and downflow units corresponds to a proportional decrease/increase in the baseline UEC within a given equipment class grouping of condenser system and capacity. 85 FR 60642, 60665 (Sept. 25, 2020). DOE sought comment on its energy-use analysis methodology in the September 2020 NODA/RFI.

AHRI stated that they continue to support DOE's proposed approach to determine the UEC of upflow units using the fractional increase or decrease in NSenCOP relative to the baseline downflow unit in a given equipment class grouping of condenser system and capacity. (AHRI, No. 2 at p. 3) Joint Advocates stated that they support DOE's conclusion that the UEC values for the ASHRAE Standard 90.1–2019 levels can be calculated based on the ratio of the baseline NSenCOP level and the ASHRAE Standard 90.1–2019 NSenCOP level. (Joint Advocates, No. 6 at p. 2) Based on the discussion above and consideration of the comments received, DOE has maintained its methodology for estimating UEC.

CA IOUs requested that DOE publish the efficiency curves used to calculate performance of CRACs at temperatures other than AHRI test conditions and provide background on how the curves were created. (CA IOUs, No. 5 at p. 3) The CA IOUs also requested that DOE publish the methodology employed to determine the effect of fluid economizers in the energy analysis. (CA IOUs, No. 5 at p. 3)

DOE notes that the UECs were derived from the analysis performed in the May 2012 final rule and the temperature bin analysis used to derive those UECs was published in Appendix 4B of the May 2012 final rule technical support document.[15] The methodology to determine the effect of fluid economizers, can be found in Chapter 4

[15] *www.regulations.gov/document/EERE-2011-BT-STD-0029-0021.*

of the May 2012 final rule technical support document.[16]

Table IV–1 shows UEC estimates for the equipment classes triggered by ASHRAE Standard 90.1–2019 (*i.e.,* equipment classes for which the ASHRAE Standard 90.1–2019 energy efficiency level is more stringent than the current applicable Federal standard).

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Table IV-1: National UEC Estimates (kWh/year) for CRAC Systems[1]

Condenser System Type	Airflow Configuration	Current Net Sensible Cooling Capacity	Current Federal Standard		ASHRAE Standard 90.1-2019	
			NSenCOP	UEC (kwh)	NSenCOP	UEC (kwh)
Air-cooled	Downflow	<65,000 Btu/h	2.62	27,411	2.70	26,599
		≥65,000 Btu/h and <240,000 Btu/h	2.50	102,762	2.58	99,575
		≥240,000 Btu/h and <760,000 Btu/h	2.26	246,011	2.36	235,587
	Upflow, ducted	<65,000 Btu/h	2.65	27,100	2.67	26,897
		≥240,000 Btu/h and <760,000 Btu/h	2.26	247,104	2.33	238,620
		<65,000 Btu/h	2.09	34,362	2.16	33,248

[16] *www.regulations.gov/document/EERE-2011-BT-STD-0029-0021.*

	Upflow, non-ducted	≥65,000 Btu/h and <240,000 Btu/h	1.99	129,097	2.04	125,933
		≥240,000 Btu/h and <760,000 Btu/h	1.79	310,606	1.89	294,172
Water-cooled	Downflow	<65,000 Btu/h	2.73	24,726	2.82	23,850
		≥65,000 Btu/h and <240,000 Btu/h	2.63	92,123	2.73	88,749
		≥240,000 Btu/h and <760,000 Btu/h	2.54	208,727	2.67	198,564
	Upflow, ducted	<65,000 Btu/h	2.77	24,280	2.79	24,106
		≥240,000 Btu/h and <760,000 Btu/h	2.56	207,096	2.64	200,821
	Upflow, non-ducted	<65,000 Btu/h	2.25	29,891	2.43	27,677
		≥65,000 Btu/h and <240,000 Btu/h	2.17	112,169	2.32	104,433
		≥240,000 Btu/h and <760,000 Btu/h	2.09	254,888	2.20	240,985
Water-cooled with fluid economizer	Downflow	<65,000 Btu/h	2.68	15,443	2.77	14,885
		≥65,000 Btu/h and <240,000 Btu/h	2.59	57,537	2.68	55,390
		≥240,000 Btu/h and <760,000 Btu/h	2.50	129,787	2.61	123,819
	Upflow, ducted	<65,000 Btu/h	2.72	15,159	2.74	15,048
		≥240,000 Btu/h and <760,000 Btu/h	2.51	128,753	2.58	125,259
	Upflow, non-ducted	<65,000 Btu/h	2.21	18,657	2.35	17,546
		≥65,000 Btu/h and <240,000 Btu/h	2.13	70,022	2.24	66,271
		≥240,000 Btu/h and <760,000 Btu/h	2.05	158,416	2.12	152,438
Glycol-cooled	Downflow	<65,000 Btu/h	2.43	24,671	2.56	23,419
		≥65,000 Btu/h and <240,000 Btu/h	2.15	101,844	2.24	97,297
		≥240,000 Btu/h and <760,000 Btu/h	2.11	227,098	2.21	215,794
	Upflow, ducted	<65,000 Btu/h	2.47	24,272	2.53	23,696
		≥65,000 Btu/h and <240,000 Btu/h	2.19	99,975	2.21	98,618
		≥240,000 Btu/h and <760,000 Btu/h	2.11	226,021	2.18	218,764
	Upflow, non-ducted	<65,000 Btu/h	2.03	29,679	2.08	28,823
		≥65,000 Btu/h and <240,000 Btu/h	1.77	123,833	1.90	114,708

		≥240,000 Btu/h and <760,000 Btu/h	1.73	275,668	1.81	263,483
Glycol-cooled with fluid economizer	Downflow	<65,000 Btu/h	2.39	19,813	2.51	18,866
		≥65,000 Btu/h and <240,000 Btu/h	2.11	81,668	2.19	78,312
		≥240,000 Btu/h and <760,000 Btu/h	2.06	182,034	2.15	174,414
	Upflow, ducted	<65,000 Btu/h	2.43	19,567	2.48	19,094
		≥65,000 Btu/h and <240,000 Btu/h	2.14	80,142	2.16	79,400
		≥240,000 Btu/h and <760,000 Btu/h	2.07	182,034	2.12	176,882
	Upflow, non-ducted	<65,000 Btu/h	1.99	23,796	2.00	23,677
		≥65,000 Btu/h and <240,000 Btu/h	1.73	99,135	1.82	94,232
		≥240,000 Btu/h and <760,000 Btu/h	1.69	221,888	1.73	216,757

[1] The air-cooled, upflow ducted, > 65,000 Btu/h and < 240,000 Btu/h; water-cooled, upflow ducted, > 65,000 Btu/h and < 240,000 Btu/h; and water-cooled with fluid economizer, upflow ducted, > 65,000 Btu/h and < 240,000 Btu/h equipment classes are not included in the table as the ASHRAE Standard 90.1-2019 levels for these classes are equivalent to the current Federal standard.

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B. Shipments Analysis

DOE uses shipment projections by equipment class to calculate the national impacts of standards on energy consumption, as well as net present value and future manufacturer cash flows. DOE shipments projections typically are based on available historical data broken out by equipment classes. Current sales estimates allow for a more accurate model that captures recent trends in the market.

In the analysis presented in the September 2019 NODA/RFI, DOE performed a ''bottom-up'' calculation to estimate CRAC shipments based on the cooling demand required from CRAC-cooled data centers. 84 FR 48006, 48027–48030 (Sept. 11, 2019). In response to the September 2019 NODA/RFI, DOE received a confidential data submission from AHRI which provided DOE with a CRAC shipments time series from 2012–2018 and market shares broken out by the 30 Federal equipment classes. Accordingly, in the September 2020 NODA/RFI, DOE calibrated the stock of CRACs in the 2012 Commercial Buildings Energy Consumption Survey (CBECS 2012) [17] to an amount that would be equal to the number of 2012 shipments multiplied by the average lifetime of a CRAC (*i.e.,* 15 years). Additional detail on the shipment and stock methodology can be found in the September 2020 NODA/RFI. 85 FR 60642, 60666–60668 (Sept. 25, 2020). DOE requested comments on this revised methodology in the September 2020 NODA/RFI. 85 FR 60642, 60668 (Sept. 25, 2020). AHRI commented that in the absence of better information, AHRI supports DOE's modified analysis using CBECS 2012. AHRI stated that the 2018 edition of CBECS (CBECS 2018) will better map equipment to end-use categories and that CBECS 2018 is expected to be published in November of this year. They commented that if DOE was able to use data from CBECS 2018, AHRI recommends modifying the analysis to include this updated information. AHRI also commented that there have been significant advances in the data center industry within the past decade and as a snapshot, the 2012 CBECS does not capture the industry shifting from enterprise data rooms in commercial buildings and data centers to the current strategy of edge computing on site, with data centers focused on co-location servers and cloud computing support. AHRI suggested that DOE review material published by organizations that study data center growth such as Gartner and the Uptime Institute. (AHRI No. 2 at p. 3) Trane suggested that using CBECS 2012 data might lead to underestimating the fast-moving CRAC market. They suggested using data from research and advisory companies that have updated definitions and attributes of data centers to 2020 and beyond. (Trane, No. 8 at p. 2)

In response to AHRI's comment on using CBECS 2018 data, DOE notes that the full data set from CBECS 2018 is not expected to be available until mid-2022.[18] Furthermore, in the September 2020 NODA/RFI, CBECS 2012 was used to develop a stock of CRACs that would match the shipments provided by AHRI in 2012, so the main driver of shipments analysis was the shipments time series and not CBECS 2012. To the extent that updated CBECS data becomes available, DOE will consider such data in the evaluation of a final rule.

DOE did not update the analysis based on third party research from entities such as Uptime or Gartner because it was able to use the

[17] U.S. Department of Energy—Energy Information Administration, 2012 CBECS Survey Data (Last accessed March 9, 2020) (Available at: *www.eia.gov/consumption/commercial/data/2012/*).

[18] *See www.eia.gov/consumption/commercial/.*

confidential national shipments data from AHRI to develop the shipments and stock model. Much of the third-party research is on the broader data center industry and not specifically CRACs, therefore DOE determined that the CRAC shipments data from AHRI was the best source for conducting the shipments analysis.

The CA IOUs sought clarification on the methodology to estimate data centers, particularly the following two statements: (1) In this NODA/RFI, DOE assumed that any building with a data center, regardless of the building's main cooling system, would use a CRAC, in order to account for the use of CRACs in edge computing centers and to align with the ASHRAE Standard 90.1 definition of a ''computer room'' and (2) all data centers without central chillers were assumed to have CRACs. (CA IOUs, No. 5, p. 3)

The CA IOUs also suggested that to help estimate the number of data centers using CRACs as compared to chilled water units, DOE should consider requesting shipment data from manufacturers for direct expansion (DX) CRACs and chilled water computer room air handlers. Alternatively, the CA IOUs suggested DOE could consider the data used in the California 2022 Title 24 Nonresidential Computer Room Efficiency CASE report which shows that ⅓ of computer room cooling uses chilled water. (CA IOUs, No. 5, p. 3) (*Id.*)

In response to the comment by the CA IOUs asking for clarification on the methodology to estimate data centers, DOE notes that the second statement is a typographical error in the September 2020 NODA/RFI. 85 FR 60642, 60668 (Sept. 25, 2020). The first statement reflects the methodology used to develop a stock of equipment for the September 2020 NODA/RFI, using CBECS 2012 to estimate the stock of CRACs to match the confidential shipments data provided by AHRI for the year 2012. 85 FR 60642, 60667 (Sept. 25, 2020). The second statement should read ''all data centers were assumed to have CRACs.'' The reference to excluding CRACs in buildings with chilled water systems was based on the methodology DOE used in the September 2019 NODA/RFI. 84 FR 48006, 48027 (Sept. 11, 2019). Subsequently, DOE updated its approach based on stakeholder comments and a confidential data submission of CRAC shipments received in response to the September 2019 NODA/RFI. The updated approach was included in the September 2020 NODA/RFI despite the typographical error. 85 FR 60642, 60667 (Sept. 25, 2020). In this NOPR, DOE is using the same analysis as the September 2020 NODA/RFI.

Regarding the suggestion for additional shipments data requests and the use of the California 2022 Title 24 Nonresidential Computer Room Efficiency CASE report, DOE notes that it relied on national shipments data for CRACs from 2012 to 2018 from AHRI and that was used to update the shipments analysis in the September 2020 NODA/RFI.

In the September 2020 NODA/RFI, DOE modeled oversizing in CRAC units with an oversize factor of 1.2, reduced from 1.3 in the September 2019 NODA/RFI based on stakeholder comments. 85 FR 60642, 60668 (Sept. 25, 2020). DOE requested comment on the methodology for estimating server power consumption and for any information or data on expectations of future server stock and energy use in small data centers.

In response, AHRI stated that they support DOE's proposal to reduce oversizing from a factor of 1.3 to 1.2; however, they contended that data center equipment was sized correctly but that the actual installed equipment includes redundant units. AHRI asserted that it is essential to understand that cooling equipment is sized to accommodate the maximum Information Technology (IT) load for the space, and that this load may not be present at the initial start-up of the data center but grows quickly as more IT load is added (AHRI, No. 2, p. 4).

DOE notes that while oversizing is intended for future growth, the speed at which that growth occurs can vary. Also, in response to the September 2019 NODA/RFI, the CA IOUs provided evidence of oversizing in the range of 20 to 30 percent. (CA IOUs, EERE–2017–BT–STD–0017–0006 at p. 3) Therefore, DOE reduced its oversizing factor but did not remove it altogether.

In the analysis conducted in the September 2020 NODA/RFI, DOE used the confidential shipments data provided by AHRI to calibrate its shipment model to produce a revised breakdown by equipment class. DOE then used a stock turnover model to project shipments over the 30-year shipments analysis period. The stock turnover model was broken into three cooling capacities (<65,000 Btu/h, ≥65,000 Btu/h and <240,000 Btu/h, and ≥240,000 Btu/h and <760,000 Btu/h) and stock projections for each cooling capacity grew at a constant rate through the 30-year analysis period. 85 FR 60642, 60668–60669 (Sept. 25, 2020). Total shipments are projected to grow slightly over the analysis period as shown in Table IV–2 of this document.

TABLE IV–2—PROJECTED SHIPMENTS

	<65,000 Btu/h	≥65,000 Btu/h and <240,000 Btu/h	≥240,000 Btu/h and <760,000 Btu/h	Total shipments
2020 Shipments	3,208	2,132	3,190	8,530
2052 Shipments	2,634	3,650	3,178	9,462

The AHRI market share data provided to DOE in response to the September 2019 NODA/RFI were broken out by the 30 currently defined Federal equipment classes. DOE assumed upflow market share split evenly between the upflow ducted and upflow non-ducted equipment classes. DOE did not have any market share data on horizontal-flow, ceiling-mounted, and air-cooled with fluid economizer CRAC equipment classes; therefore, DOE was unable to disaggregate savings for these classes in the September 2020 NODA/RFI.

In the September 2020 NODA/RFI, DOE requested shipments data on horizontal-flow, ceiling-mounted, and air-cooled with fluid economizer CRAC equipment classes. AHRI commented that they were in the process of collecting shipments data on horizontal-flow, ceiling-mounted, and air-cooled with fluid economizer CRAC equipment classes, and that if the data met AHRI data collection requirements it would be submitted to DOE. (AHRI, No. 2 at p. 3)

DOE received data from AHRI that provided the percentage of total CRAC shipments by equipment class for horizontal-flow, ceiling-mounted, and floor mounted air-cooled with fluid economizer CRACs. However, the data provided did not include the available

efficiency levels (in NSenCOP) of CRACs for sale within each equipment class, which would enable DOE to derive a market baseline for these equipment classes. DOE was unable to otherwise obtain such efficiency data. Without a market baseline, DOE is unable to estimate the potential energy savings from more efficient equipment. As such, the energy saving analysis does not include horizontal-flow, ceiling-mounted, or air-cooled with fluid economizer CRACs.

C. No-New-Standards-Case Efficiency Distribution

The no-new-standards case efficiency distribution is used to establish the market share of each efficiency level in the case where there is no new or amended standard. DOE is unaware of available market data that reports CRAC efficiency in terms of NSenCOP that can be used to determine the no-new-standards case efficiency distribution. In the September 2020 NODA/RFI, DOE requested efficiency data for CRACs in terms of NSenCOP that can be used to estimate the no-new-standards case efficiency distribution. 85 FR 60642, 60669–60670 (Sept. 25, 2020). DOE did not receive efficiency data in terms of NSenCOP and DOE is not aware of such data being available. Therefore, DOE has maintained the efficiency distribution used in the September 2020 NODA/RFI, which relied on DOE's Compliance Certification Database for CRACs which reports efficiency in terms of SCOP. DOE applied the crosswalk methodology discussed in section III.C. of this NOPR to translate each model's reported SCOP into NSenCOP.

DOE estimated the no-new-standards case efficiency distribution for each CRAC equipment class using model counts from DOE's Compliance Certification Database. DOE calculated the fraction of models that are above the current Federal baseline and below the ASHRAE Standard 90.1–2019 level and assigned this to the Federal baseline. All models that are at or above that ASHRAE Standard 90.1–2019 are assigned to the ASHRAE level. The no-new-standard case distribution for CRACs are presented in Table IV–3.

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Table IV-3: No-New-Standards Case Efficiency Distribution for CRACs[1]

Condenser System Type	Airflow Configuration	Current Net Sensible Cooling Capacity	Federal Baseline Market Share	ASHRAE STANDARD 90.1-2019 Level Market Share
Air-cooled	Downflow	<65,000 Btu/h	2%	98%
		≥65,000 Btu/h and <240,000 Btu/h	22%	78%
		≥240,000 Btu/h and <760,000 Btu/h	20%	80%
	Upflow, ducted	<65,000 Btu/h	0%	100%
		≥240,000 Btu/h and <760,000 Btu/h	4%	96%
	Upflow, non-ducted	<65,000 Btu/h	4%	96%
		≥65,000 Btu/h and <240,000 Btu/h	11%	89%
		≥240,000 Btu/h and <760,000 Btu/h	23%	77%
Water-cooled	Downflow	<65,000 Btu/h	11%	89%
		≥65,000 Btu/h and <240,000 Btu/h	15%	85%
		≥240,000 Btu/h and <760,000 Btu/h	24%	76%
	Upflow, ducted	<65,000 Btu/h	0%	100%
		≥240,000 Btu/h and <760,000 Btu/h	13%	87%
	Upflow, non-ducted	<65,000 Btu/h	11%	89%
		≥65,000 Btu/h and <240,000 Btu/h	21%	79%
		≥240,000 Btu/h and <760,000 Btu/h	27%	73%

Water-cooled with fluid economizer	Downflow	<65,000 Btu/h	2%	98%
		≥65,000 Btu/h and <240,000 Btu/h	13%	87%
		≥240,000 Btu/h and <760,000 Btu/h	38%	62%
	Upflow, ducted	<65,000 Btu/h	2%	98%
		≥240,000 Btu/h and <760,000 Btu/h	13%	87%
	Upflow, non-ducted	<65,000 Btu/h	8%	92%
		≥65,000 Btu/h and <240,000 Btu/h	16%	84%
		≥240,000 Btu/h and <760,000 Btu/h	20%	80%
Glycol-cooled	Downflow	<65,000 Btu/h	57%	43%
		≥65,000 Btu/h and <240,000 Btu/h	31%	69%
		≥240,000 Btu/h and <760,000 Btu/h	36%	64%
	Upflow, ducted	<65,000 Btu/h	20%	80%
		≥65,000 Btu/h and <240,000 Btu/h	6%	94%
		≥240,000 Btu/h and <760,000 Btu/h	30%	70%
	Upflow, non-ducted	<65,000 Btu/h	20%	80%
		≥65,000 Btu/h and <240,000 Btu/h	38%	62%
		≥240,000 Btu/h and <760,000 Btu/h	30%	70%
Glycol-cooled with fluid economizer	Downflow	<65,000 Btu/h	57%	43%
		≥65,000 Btu/h and <240,000 Btu/h	31%	69%
		≥240,000 Btu/h and <760,000 Btu/h	31%	69%
	Upflow, ducted	<65,000 Btu/h	10%	90%
		≥65,000 Btu/h and <240,000 Btu/h	8%	92%
		≥240,000 Btu/h and <760,000 Btu/h	33%	67%
	Upflow, non-ducted	<65,000 Btu/h	2%	98%
		≥65,000 Btu/h and <240,000 Btu/h	30%	70%
		≥240,000 Btu/h and <760,000 Btu/h	27%	73%

[1] The air-cooled, upflow ducted, > 65,000 Btu/h and < 240,000 Btu/h; water-cooled, upflow ducted, > 65,000 Btu/h and < 240,000 Btu/h; and water-cooled with fluid economizer, upflow ducted, > 65,000 Btu/h and < 240,000 Btu/h equipment classes are not included in the table as the ASHRAE Standard 90.1-2019 for these equipment classes is equivalent to the current Federal standard.

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D. Other Analytical Inputs

1. Equipment Lifetime

DOE defines ''equipment lifetime'' as the age at which a unit is retired from service. For the September 2019 NODA/RFI, DOE used a 15-year lifetime for all CRAC equipment classes based on the lifetime used in the May 2012 final rule. 84 FR 48006, 48030 (Sept. 11, 2019) (*citing* the May 2012 final rule at 77 FR 28928, 28958 (May 16, 2012)). In response to the September 2019 NODA/RFI, AHRI and Trane agreed that 15 years was a reasonable average lifetime. (AHRI, EERE–2017–BT–STD–0017–0007 at p. 7; Trane, EERE–2017–BT–STD–0017–0005 at p. 2) DOE maintained the 15-year average lifetime in the September 2020 NODA/RFI and received no comments on this issue. DOE continued to rely on a 15-year equipment lifetime for this NOPR.

2. Compliance Dates and Analysis Period

If DOE were to prescribe energy conservation standards at the efficiency levels contained in ASHRAE Standard 90.1–2019, EPCA provides that the compliance date shall be on or after a date that is two or three years (depending on the equipment type or size) after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE standard. (42 U.S.C. 6313(a)(6)(D)) If ASHRAE Standard 90.1 does not specify an effective date, then the compliance date specified by statute would be dependent upon the publication date of ASHRAE 90.1–2019.

In this case, ASHRAE Standard 90.1–2019 does not specify an effective date for CRAC levels, therefore the publication date of October 23, 2019, was used to determine the compliance dates for estimating the energy savings potential of adopting ASHRAE Standard 90.1-levels.

For equipment classes for which the ASHRAE Standard 90.1 levels are more stringent than the current Federal standards (*i.e.,* classes for which DOE is triggered), if DOE were to prescribe standards more stringent than the efficiency levels contained in ASHRAE Standard 90.1–2019, EPCA dictates that the compliance date must be on or after a date which is four years after the date of publication of a final rule in the **Federal Register**. (42 U.S.C. 6313(a)(6)(D)) For equipment classes for which DOE is acting under its 6-year lookback authority, if DOE were to adopt more-stringent standards, EPCA states that the compliance date for any such standard shall be after a date that is the later of the date three years after publication of the final rule establishing a new standard or the date six years after the effective date for the current standard. (42 U.S.C. 6313(a)(6)(C)(iv)) As discussed in Section V of this NOPR, DOE is not proposing standards for CRACs that are more stringent than the levels contained in ASHRAE Standard 90.1–2019.

For purposes of calculating the NES for the equipment in this evaluation, DOE used a 30-year analysis period starting with the assumed year of compliance listed in Table IV–4 for equipment analyzed in the September 2020 NODA/RFI. This is the standard analysis period of 30 years that DOE typically uses in its NES analysis. For equipment classes with a compliance date in the last six months of the year, DOE starts its analysis period in the first full year after compliance. For example, if CRACs less than 65,000 Btu/h were to have a compliance date of October 23, 2021, the analysis period for calculating NES would begin in 2022 and extend to 2051.

TABLE IV–4—ANALYZED COMPLIANCE DATES OF AMENDED ENERGY CONSERVATION STANDARDS FOR TRIGGERED EQUIPMENT CLASSES

Equipment class	Analyzed compliance dates for efficiency levels in ASHRAE Standard 90.1–2019
Computer Room Air Conditioners	
Equipment with current NSCC <65,000 Btu/h	10/23/2021
Equipment with current NSCC ≥65,000 and <240,000 Btu/h	10/23/2022
Equipment with current NSCC ≥240,000 Btu/h and <760,000 Btu/h	10/23/2022

In response to the September 2020 NODA/RFI, AHRI noted that the September 2020 NODA/RFI mentioned different compliance dates for CRACs with NSCC less than 65,000 Btu/h and for CRACs with NSCC greater than 65,000 Btu/h but less than 240,000 Btu/h, with CRACs with NSCC less than 65,000 Btu/h having a compliance effective date one year earlier. (AHRI, No.2 at p. 2) AHRI stated that they understood that this difference stems from EPCA requirements but urged DOE to harmonize compliance on the same date, *i.e.,* October 23, 2022, stating that it would be unnecessarily confusing for manufacturers and other stakeholders to manage separate compliance dates. *Id.*

The analysis presented in this NOPR relies on the minimum compliance dates provided under EPCA for the energy conservation standards as proposed. As discussed in section V.D, DOE considered the various applicable lead-times required by EPCA, and proposes that the compliance date for amended standards for all CRAC equipment classes would be 360 days after the publication date of the final rule adopting amended energy conservation standards.

E. Estimates of Potential Energy Savings

DOE estimated the potential site, primary, and FFC energy savings in quads (*i.e.,* 10^{15} Btu) for adopting ASHRAE Standard 90.1–2019 within each equipment class analyzed. The potential energy savings of adopting ASHRAE Standard 90.1–2019 levels are measured relative to the current Federal standards. Table IV–5 shows the potential energy savings resulting from the analyses conducted for CRACs. The reported energy savings are cumulative over the period in which equipment shipped in the 30-year analysis continues to operate. The national energy savings estimates are identical to those provided in the September 2020 NODA/RFI. *See* 85 FR 60642, 60672 (Sep. 25, 2020).

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Table IV-5: Potential Energy Savings of Adopting ASHRAE Standard 90.1-2019 for CRACs[1]

Condenser System Type	Airflow Configuration	Current Net Sensible Cooling Capacity	ASHRAE Efficiency Level	Site Savings	Primary Savings	FFC Savings
			NSenCOP	Quads	quads	quads
Air-cooled	Downflow	<65,000 Btu/h	2.70	0.0000	0.0000	0.0000
		≥65,000 Btu/h and <240,000 Btu/h	2.58	0.0011	0.0029	0.0030
		≥240,000 Btu/h and <760,000 Btu/h	2.36	0.0071	0.0185	0.0193
	Upflow, ducted	<65,000 Btu/h	2.67	0.0000	0.0000	0.0000
		≥240,000 Btu/h and <760,000 Btu/h	2.33	0.0001	0.0003	0.0003
	Upflow, non-ducted	<65,000 Btu/h	2.16	0.0000	0.0001	0.0001
		≥65,000 Btu/h and <240,000 Btu/h	2.04	0.0003	0.0007	0.0008
		≥240,000 Btu/h and <760,000 Btu/h	1.89	0.0014	0.0037	0.0039
Water-cooled	Downflow	<65,000 Btu/h	2.82	0.0000	0.0000	0.0000

		≥65,000 Btu/h and <240,000 Btu/h	2.73	0.0001	0.0003	0.0003
		≥240,000 Btu/h and <760,000 Btu/h	2.67	0.0003	0.0007	0.0008
	Upflow, ducted	<65,000 Btu/h	2.79	0.0000	0.0000	0.0000
		≥240,000 Btu/h and <760,000 Btu/h	2.64	0.0000	0.0001	0.0001
	Upflow, non-ducted	<65,000 Btu/h	2.43	0.0001	0.0004	0.0004
		≥65,000 Btu/h and <240,000 Btu/h	2.32	0.0002	0.0005	0.0006
		≥240,000 Btu/h and <760,000 Btu/h	2.20	0.0001	0.0003	0.0003
Water-cooled with fluid economizer	Downflow	<65,000 Btu/h	2.77	0.0000	0.0000	0.0000
		≥65,000 Btu/h and <240,000 Btu/h	2.68	0.0000	0.0000	0.0000
		≥240,000 Btu/h and <760,000 Btu/h	2.61	0.0001	0.0002	0.0002
	Upflow, ducted	<65,000 Btu/h	2.74	0.0000	0.0000	0.0000
		≥240,000 Btu/h and <760,000 Btu/h	2.58	0.0000	0.0000	0.0000
	Upflow, non-ducted	<65,000 Btu/h	2.35	0.0000	0.0000	0.0000
		≥65,000 Btu/h and <240,000 Btu/h	2.24	0.0000	0.0000	0.0000
		≥240,000 Btu/h and <760,000 Btu/h	2.12	0.0000	0.0000	0.0000
Glycol-cooled	Downflow	<65,000 Btu/h	2.56	0.0000	0.0000	0.0000
		≥65,000 Btu/h and <240,000 Btu/h	2.24	0.0001	0.0002	0.0002
		≥240,000 Btu/h and <760,000 Btu/h	2.21	0.0001	0.0003	0.0003
	Upflow, ducted	<65,000 Btu/h	2.53	0.0000	0.0000	0.0000
		≥65,000 Btu/h and <240,000 Btu/h	2.21	0.0000	0.0000	0.0000
		≥240,000 Btu/h and <760,000 Btu/h	2.18	0.0000	0.0000	0.0000
	Upflow, non-ducted	<65,000 Btu/h	2.08	0.0000	0.0000	0.0000
		≥65,000 Btu/h and <240,000 Btu/h	1.90	0.0001	0.0003	0.0003
		≥240,000 Btu/h and <760,000 Btu/h	1.81	0.0000	0.0001	0.0001
Glycol-cooled with fluid economizer	Downflow	<65,000 Btu/h	2.51	0.0000	0.0001	0.0001
		≥65,000 Btu/h and <240,000 Btu/h	2.19	0.0003	0.0007	0.0007
		≥240,000 Btu/h and <760,000 Btu/h	2.15	0.0009	0.0022	0.0023
	Upflow, ducted	<65,000 Btu/h	2.48	0.0000	0.0000	0.0000
		≥65,000 Btu/h and <240,000 Btu/h	2.16	0.0000	0.0000	0.0000
		≥240,000 Btu/h and <760,000 Btu/h	2.12	0.0002	0.0004	0.0004
		<65,000 Btu/h	2.00	0.0000	0.0000	0.0000

	Upflow, non-ducted	≥65,000 Btu/h and <240,000 Btu/h	1.82	0.0003	0.0007	0.0008
		≥240,000 Btu/h and <760,000 Btu/h	1.73	0.0001	0.0003	0.0003

[1] The air-cooled, upflow ducted, > 65,000 Btu/h and < 240,000 Btu/h; water-cooled, upflow ducted, > 65,000 Btu/h and < 240,000 Btu/h; and water-cooled with fluid economizer, upflow ducted, > 65,000 Btu/h and < 240,000 Btu/h equipment classes are not included in the table as the ASHRAE Standard 90.1-2019 level for these equipment classes is equivalent to the current Federal standard.

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V. Conclusions

A. Consideration of More-Stringent Efficiency Levels

EPCA requires DOE to establish an amended uniform national standard for equipment classes at the minimum level specified in the amended ASHRAE Standard 90.1 unless DOE determines, by rule published in the **Federal Register**, and supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than the amended ASHRAE Standard 90.1 for the equipment class would result in significant additional conservation of energy and is technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)(I)–(II)) In the September 2020 NODA/RFI, DOE requested data and information that could help determine whether standards levels more stringent than the levels in ASHRAE Standard 90.1–2019 for CRACs would result in significant additional energy savings for classes for which DOE was triggered. DOE also requested data and information that could help determine whether standards levels more stringent than the levels in ASHRAE Standard 90.1–2019 for CRACs would result in significant additional energy savings for classes for which DOE was not triggered (*i.e.,* classes reviewed under the six-year look back provision). 85 FR 60642, 60674–60675 (September 25, 2020).

AHRI stated that while more stringent levels may result in additional energy savings, the added costs to the manufacturers and ultimately their customers would negate much of the savings. AHRI stated that they support the full adoption of the amended ASHRAE Standard 90.1 levels for all classes of CRACs. (AHRI, No. 2 at pp. 4–5) Rheem also commented that they generally support the adoption of ASHRAE Standard 90.1 for all classes of CRACs. (Rheem, No. 4 at p. 1)

Joint Advocates and CA IOUs encouraged DOE to evaluate more-stringent standards than the ASHRAE Standard 90.1–2019 levels, and said that they disagreed with DOE's preliminary conclusion in the September 2020 NODA/RFI that the test metric change created uncertainty that would prevent an adequate evaluation of more stringent standards. (Joint Advocates, No. 6 at pp. 3–4; CA IOUs, No. 5 at p. 2) These commenters asserted that only when economic analyses are complete can the determination be made as to whether the statutory ''clear and convincing evidence'' requirement has been met. *Id.* CA IOUs further encouraged DOE to evaluate on a case-by-case basis whether the standard of ''clear and convincing evidence'' of energy savings has been met for increasing stringency of standards when there is a metric change. (CA IOUs, No. 5 at p. 2) Additionally, CA IOUs presented the concern that if DOE were to generalize their position taken in the September 2020 NODA/RFI to other product categories, some members of the ASHRAE Standard 90.1 committee will be less likely to support updates to the test procedure if they believe that DOE will use the update as a reason to decline to conduct further analysis. *Id.*

Joint Advocates commented that DOE's crosswalk analysis presented in the September 2020 NODA/RFI had already been vetted by stakeholders and would lead to reasonable accounting of potential energy savings. (Joint Advocates, No. 6 at p. 3) Joint Advocates also asserted that energy savings from adopting standards for CRACs more stringent than the ASHRAE Standard 90.1–2019 levels have the potential to be significant, given the annual energy consumption and range of potential efficiencies for CRACs. *Id.* The commenter further stated that it is not unprecedented for DOE to adopt amended standards at levels higher than the ASHRAE Standard 90.1 levels based on a revised metric, referencing a prior standards rulemaking for air-cooled commercial unitary air conditioners (ACUACs), in which DOE adopted integrated energy efficiency ratio (IEER) standards at levels that were more stringent than the corresponding ASHRAE 90.1 levels, in a 2016 direct final rule (81 FR 2419). *Id* at p. 4.

In response to AHRI's comment that more stringent levels would add costs to manufacturers and customers that would negate much of the savings, DOE notes that a full consideration of more stringent levels, if undertaken, would assess manufacturer, consumer, and national impacts.

In response to comments from Joint Advocates and CA IOUs, DOE notes that it makes determinations pursuant to the ASHRAE trigger (and the six-year look back review) by evaluating the information and data available specific to the equipment under review. In this NOPR, DOE is not making a general determination that the clear and convincing evidence threshold cannot be met in instances in which there is a metric change. The preliminary position taken in the September 2020 NODA/RFI and in this NOPR on whether the clear and convincing evidence requirement for showing that more stringent standards would result in significant additional energy savings is specific to CRACs. As suggested by CA IOUs, DOE makes this determination on a case-by-case basis. As to the concern that the preliminary determination put forward in this NOPR may cause some members of the ASHRAE Standard 90.1 committee to be less likely to support updates to industry test procedures, DOE notes that EPCA requires DOE to review periodically the test procedures for covered equipment, and make amendments to the extent justified. (42 U.S.C. 6314(a)(1))

As discussed in the September 2020 NODA/RFI, an estimation of energy savings potentials of energy efficiency levels more stringent than the amended ASHRAE Standard 90.1 levels would require developing efficiency data for the entire CRAC market in terms of the NSenCOP metric. 85 FR 60642, 60673 (Sept 25, 2020). Because there are minimal market efficiency data currently available in terms of NSenCOP, this would require a crosswalk analysis much broader than the analysis used to evaluate ASHARE 90.1–2019 levels. 85 FR 60642, 60674

(Sept 25, 2020). The crosswalk analysis presented in this NOPR (analyzing ASHRAE 90.1–2019 levels) required only that DOE translate the efficiency levels between the metrics at the baseline levels, and not that DOE translate all efficiency levels currently represented in the market (*i.e.,* high efficiency levels). To obtain NSenCOP market data for purposes of analysis of standard levels more stringent than ASHRAE Standard 90.1–2019, DOE would be required to translate the individual SCOP ratings to NSenCOP ratings for all CRAC models certified in DOE's Compliance Certification Management System (CCMS) Database. As the range of model efficiencies increases, so does the number of different technologies used to achieve such efficiencies. With this increase in variation, there is an increase in the potential for variation in the crosswalk results from the actual performance under the new metric of the analyzed models. As noted, there is limited market data regarding the performance of CRACs as represented according to the updated metric, and there is not a comparable industry analysis (*i.e.,* translating ratings to the updated metric for all models on the market) for comparison. 85 FR 60642, 60674 (Sept 25, 2020).

Because of the lack of market data and the test metric change, and DOE is tentatively unable to determine via clear and convincing evidence that a more stringent standard level would result in significant additional conservation of energy and is technologically feasible and economically justified. DOE has tentatively decided not to conduct further analysis for this particular rulemaking because DOE lacks the data to assess potential energy conservation. In this specific instance, DOE disagrees with comments from CA IOUs and Joint Advocates that the statutory clear and convincing evidence criterion can only be assessed after full economic analyses have been conducted. EPCA requires that DOE determine, supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than the amended ASHRAE Standard 90.1 for CRAC would result in significant additional conservation of energy *and* is technologically feasible *and* economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)(II); *emphasis added*) The inability to make a determination, supported by clear and convincing evidence, with regard to any one of the statutory criteria prohibits DOE from adopting more stringent standards regardless of determinations as to the other criteria. DOE has tentatively determined that at this time there is sufficient lack of data specific to CRACs (including but not limited to market efficiency data in terms of the new efficiency metric) to preclude clear and convincing evidence of significant additional energy savings from CRAC efficiency levels more stringent than ASHRAE 90.1–2019 levels.

The past ACUAC rulemaking (that Joint Advocates cited as precedent) was not analogous to the present situation for CRACs, because at the time that ACUAC rulemaking began, the IEER metric was already in use by the ACUAC industry. *See* 81 FR 2419, 2441 (Jan. 15, 2014).[19] Specifically, the vast majority of ACUAC models on the market were already rated for IEER (in addition to EER, which was the federally regulated metric at the time), and these IEER market data for ACUACs were available in the AHRI Directory at the time.[20]

In contrast, during development of this NOPR, there were minimal available NSenCOP market data. Specifically, DOE identified NSenCOP market data for less than 3 percent of the CRAC models certified in DOE's Certification Compliance Database. DOE requested efficiency data in terms of NSenCOP in the September 2020 NODA/RFI but received no such data. DOE presumes that this is because CRAC manufacturers are not yet using the new test metric (NSenCOP) to rate equipment, unlike in the discussed ACUAC rulemaking.

After considering the stakeholder comments, and the lack of sufficient NSenCOP market data available following the September 2020 NODA/RFI, DOE maintains its preliminary decision not to conduct additional analysis of more stringent standards for this rulemaking. The lack of market and performance data in terms of the new metric limits the analysis of energy savings that would result from efficiency levels more stringent than the amended ASHRAE Standard 90.1–2019 levels for this equipment. Given the limits of any energy use analysis resulting from the lack of data, DOE has tentatively concluded that it lacks clear and convincing evidence that more stringent standards would result in a significant additional amount of energy savings as required for DOE to establish more-stringent standards.

DOE has tentatively determined that due to the lack of market and performance data for the CRAC market as a whole in terms of NSenCOP, it is unable to estimate potential energy savings from more stringent standards that meets the clear and convincing evidence threshold required by statute to justify standards more stringent than the amended ASHRAE Standard 90.1 efficiency levels for CRACs.

B. Review Under Six-Year Lookback Provision

As discussed, DOE is required to conduct an evaluation of each class of covered equipment in ASHRAE Standard 90.1 every six years. (42 U.S.C. 6313(a)(6)(C)(i)) DOE may only adopt more stringent standards pursuant to the six-year look-back review if the Secretary determines, supported by clear and convincing evidence, that the adoption more stringent standards would result in significant additional conservation of energy and is technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(C)(i); 42 U.S.C. 6313(a)(6)(A)(ii)(II)) The analysis under the look-back provision incorporates the same standards and factors as the analysis for whether DOE should adopt a more stringent standard than an amended ASHRAE Standard 90.1 standard. *Id.* Accordingly, DOE is here evaluating the six CRAC equipment classes for which ASHRAE Standard 90.1–2019 did not increase the stringency of the standards.

Similar to the triggered classes discussed in section V.A of this NOPR, there are limited NSenCOP data for CRACs within each of these six classes and there is not a comparable industry analysis (*i.e.,* translating ratings to the updated metric for all models on the market) for comparison. While the crosswalk analysis required only that DOE translate the efficiency levels at the baseline levels, the analysis needed to evaluate whether amended standards more stringent than ASHRAE Standard 90.1–2019 would result in significant energy savings and be technologically feasible and economically justified under the clear and convincing threshold would require more than baseline data—it would require NSenCOP data across all efficiency levels on the market.

[19] DOE noted that AHRI Standard 340/360–2007 already included methods and procedures for testing and rating equipment with the IEER metric. ASHRAE, through its Standard 90.1, includes requirements based on the part-load performance metric, IEER. These IEER requirements were first established in Addenda to the 2008 Supplement to Standard 90.1– 2007, and were required for compliance with ASHRAE Standard 90.1 on January 1, 2010. *Id.*

[20] As part of a NODA/RFI for energy conservation standards for ACUACs published on February 1, 2013 (78 FR 7296), DOE made available a document that provides the methodology and results of an investigation of EER and IEER market data for ACUACs. See Docket No. EERE–2013–BT–STD–0007–0001.

Therefore, in line with the same initial reasoning presented in DOE's evaluation of more stringent standards for those classes of CRAC for which ASHRAE updated the industry standards, DOE initially determines that the clear and convincing evidence threshold is not met for these six classes. As such, DOE did not conduct an energy savings analysis of standard levels more stringent than the current Federal standard levels for the classes of CRAC not triggered by ASHRAE Standard 90.1–2019 (*i.e.,* the six classes of CRAC for which ASHRAE Standard 90.1–2019 does not specify more stringent minimum efficiency levels).

C. Definition for Ducted Condenser

As indicated, ASHRAE Standard 90.1–2019 includes separate equipment classes for ceiling-mounted CRACs with ducted condensers. The current definitions at 10 CFR 431.92 do not include a definition of ''ducted condenser''. Because DOE is proposing to adopt efficiency standards for these ceiling-mounted CRAC equipment classes with ''ducted condenser'', DOE is proposing to define the following definition for ''ducted condenser'' at 10 CFR 431.92, which is consistent with the definition specified in section 3.7.1 of AHRI 1360–202X Draft.

Ducted Condenser means a configuration of computer room air conditioner for which the condenser or condensing unit that manufacturer's installation instructions indicate is intended to exhaust condenser air through a duct(s).

D. Proposed Energy Conservation Standards

DOE proposes amended energy conservation standards for CRACs by adopting the efficiency levels specified for CRACs in ASHRAE Standard 90.1–2019. The proposed standards, which are expressed in NSenCOP, are shown in Table V–1 and Table V–2 of this document. These proposed standards, if adopted, would apply to all CRACs listed in Table V–1 and Table V–2 of this document. Table I–2 manufactured in, or imported into, the United States starting on the compliance date as discussed in the following paragraphs.

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Table V-1: Proposed Standards for Floor-Mounted CRACs

Equipment type	Net sensible cooling capacity[21]	Minimum NSenCOP efficiency		Net sensible cooling capacity	Minimum NSenCOP efficiency	
		Downflow	Upflow ducted		Upflow non-ducted	Horizontal flow
Air-Cooled	<80,000 Btu/h	2.70	2.67	<65,000 Btu/h	2.16	2.65
	≥80,000 Btu/h and <295,000 Btu/h	2.58	2.55	≥65,000 Btu/h and <240,000 Btu/h	2.04	2.55
	≥295,000 Btu/h and <930,000 Btu/h	2.36	2.33	≥240,000 Btu/h and <760,000 Btu/h	1.89	2.47
Air-Cooled with Fluid Economizer	<80,000 Btu/h	2.70	2.67	<65,000 Btu/h	2.09	2.65
	≥80,000 Btu/h and <295,000 Btu/h	2.58	2.55	≥65,000 Btu/h and <240,000 Btu/h	1.99	2.55
	≥295,000 Btu/h and <930,000 Btu/h	2.36	2.33	≥240,000 Btu/h and <760,000 Btu/h	1.81	2.47
Water-Cooled	<80,000 Btu/h	2.82	2.79	<65,000 Btu/h	2.43	2.79
	≥80,000 Btu/h and <295,000 Btu/h	2.73	2.70	≥65,000 Btu/h and <240,000 Btu/h	2.32	2.68
	≥295,000 Btu/h and <930,000 Btu/h	2.67	2.64	≥240,000 Btu/h and <760,000 Btu/h	2.20	2.60
Water-Cooled with a Fluid Economizer	<80,000 Btu/h	2.77	2.74	<65,000 Btu/h	2.35	2.71
	≥80,000 Btu/h and <295,000 Btu/h	2.68	2.65	≥65,000 Btu/h and <240,000 Btu/h	2.24	2.60
	≥295,000 Btu/h and <930,000 Btu/h	2.61	2.58	≥240,000 Btu/h and <760,000 Btu/h	2.12	2.54
Glycol-Cooled	<80,000 Btu/h	2.56	2.53	<65,000 Btu/h	2.08	2.48
	≥80,000 Btu/h and <295,000 Btu/h	2.24	2.21	≥65,000 Btu/h and <240,000 Btu/h	1.90	2.18
	≥295,000 Btu/h and <930,000 Btu/h	2.21	2.18	≥240,000 Btu/h and <760,000 Btu/h	1.81	2.18
Glycol-Cooled with a Fluid Economizer	<80,000 Btu/h	2.51	2.48	<65,000 Btu/h	2.00	2.44
	≥80,000 Btu/h and <295,000 Btu/h	2.19	2.16	≥65,000 Btu/h and <240,000 Btu/h	1.82	2.10

[21] DOE has used 930,000 Btu/h as the adjusted upper capacity limit for downflow and upflow ducted CRACs in the analysis presented in this notice (see Section III.C). The 930,000 Btu/h upper capacity limit (as measured per AHRI 1360-202X Draft) used in the crosswalk analysis is equivalent to the 760,000 Btu/h upper capacity limit (as measured per ANSI/ASHRAE 127-2007) established in the current DOE standards.

	≥295,000 Btu/h and <930,000 Btu/h	2.15	2.12	≥240,000 Btu/h and <760,000 Btu/h	1.73	2.10

Table V-2: Proposed Standards for Ceiling-Mounted CRACs

Equipment type	Net sensible cooling capacity	Minimum NSenCOP efficiency	
		Ducted	Non-Ducted
Air-Cooled with Free Air Discharge Condenser	<29,000 Btu/h	2.05	2.08
	≥29,000 Btu/h and <65,000 Btu/h	2.02	2.05
	≥65,000 Btu/h	1.92	1.94
Air-Cooled with Free Air Discharge Condenser and Fluid Economizer	<29,000 Btu/h	2.01	2.04
	≥29,000 Btu/h and <65,000 Btu/h	1.97	2.00
	≥65,000 Btu/h	1.87	1.89
Air-Cooled with Ducted Condenser	<29,000 Btu/h	1.86	1.89
	≥29,000 Btu/h and <65,000 Btu/h	1.83	1.86
	≥65,000 Btu/h	1.73	1.75
Air-Cooled with Fluid Economizer and Ducted Condenser	<29,000 Btu/h	1.82	1.85
	≥29,000 Btu/h and <65,000 Btu/h	1.78	1.81
	≥65,000 Btu/h	1.68	1.70
Water-Cooled	<29,000 Btu/h	2.38	2.41
	≥29,000 Btu/h and <65,000 Btu/h	2.28	2.31
	≥65,000 Btu/h	2.18	2.20
Water-Cooled with Fluid Economizer	<29,000 Btu/h	2.33	2.36
	≥29,000 Btu/h and <65,000 Btu/h	2.23	2.26
	≥65,000 Btu/h	2.13	2.16
Glycol-Cooled	<29,000 Btu/h	1.97	2.00
	≥29,000 Btu/h and <65,000 Btu/h	1.93	1.98
	≥65,000 Btu/h	1.78	1.81
Glycol-Cooled with Fluid Economizer	<29,000 Btu/h	1.92	1.95
	≥29,000 Btu/h and <65,000 Btu/h	1.88	1.93
	≥65,000 Btu/h	1.73	1.76

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As noted, in instances in which DOE is amending an energy conservation standard for CRAC in response to updates to ASHRAE Standard 90.1,

EPCA specifies certain compliance lead times based on equipment capacity. If DOE were to prescribe energy conservation standards at the efficiency levels contained in the updated ASHRAE Standard 90.1, EPCA states that any such standard shall become effective on or after a date that is two or three years (depending on the equipment type or size) after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE standard. (42 U.S.C. 6313(a)(6)(D)) In the present case, were DOE to adopt amended standards for ''small'' CRACs (*i.e.,* CRACs with a capacity of less than 65,000 Btu/h) at the levels specified in ASHRAE Standard 90.1, EPCA provides that the compliance date must be on or after a date which is two years after the effective date of level specified in the updated ASHRAE Standard 90.1 (*i.e.,* October 23, 2021). Were DOE to adopt amended standards for ''large'' and ''very large'' CRACs (*i.e.,* CRACs with a capacity equal to or greater than 65,000 Btu/h) at the levels specified in ASHRAE Standard 90.1, EPCA provides that the compliance date must be on or after a date which is three years after the effective date of the level specified in the updated ASHRAE Standard 90.1 (*i.e.,* October 23, 2022).

If DOE were to prescribe standards more stringent than the efficiency levels contained in ASHRAE Standard 90.1–2019, EPCA dictates that any such standard will become effective for equipment manufactured on or after a date which is four years after the date of publication of a final rule in the **Federal Register**. (42 U.S.C. 6313(a)(6)(D)) For equipment classes for which DOE is acting under its 6-year lookback authority, if DOE were to adopt more-stringent standards, EPCA states that any such standard shall apply to equipment manufactured after a date that is the latter of the date three years after publication of the final rule establishing such standard or six years after the effective date for the current standard. (42 U.S.C. 6313(a)(6)(C)(iv))

Moreover, the proposed energy conservation standards are based on a new metric (*i.e.,* NSenCOP) and DOE has proposed to amend the test procedure to rely on NSenCOP in the February 2022 CRAC TP NOPR. 87 FR 6948. Were DOE to adopt the proposed test procedure, beginning 360 days following the final test procedure rule, manufacturers would be prohibited from making representations respecting the energy consumption of CRACs, unless such equipment has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing. (42 U.S.C. 6314(d)(1))

DOE has considered these various applicable lead times relevant under EPCA to standards (*i.e.,* October 23, 2021, for ''small'' CRACs and October 23, 2022 for ''large'' and ''very large'' CRACs) and the one-year lead time relevant to a test procedure update addressing NSenCOP. In order to align the compliance dates across equipment classes and account for an updated test procedure, should one be finalized, DOE proposes that the compliance date for amended standards for all CRAC equipment classes would be 360 days after the publication date of the final rule adopting amended energy conservation standards.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Section 1(b)(1) of Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The problems that the proposed standards set forth in this NOPR are intended to address are as follows:

(1) Insufficient information and the high costs of gathering and analyzing relevant information leads some consumers to miss opportunities to make cost-effective investments in energy efficiency.

(2) In some cases, the benefits of more-efficient equipment are not realized due to misaligned incentives between purchasers and users. An example of such a case is when the equipment purchase decision is made by a building contractor or building owner who does not pay the energy costs.

(3) There are external benefits resulting from improved energy efficiency of appliances and equipment that are not captured by the users of such products. These benefits include externalities related to public health, environmental protection, and national energy security that are not reflected in energy prices, such as reduced emissions of air pollutants and greenhouse gases that impact human health and global warming.

The Administrator of the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) has determined that this regulatory action is not a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, DOE has not prepared a regulatory impact analysis for this proposed rule, and OIRA in the OMB has not reviewed this proposed rule.

DOE has also reviewed this proposed regulation pursuant to E.O. 13563, issued on January 18, 2011. 76 FR 3281 (Jan. 21, 2011). E.O. 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in E.O. 12866. To the extent permitted by law, agencies are required by E.O. 13563 to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, OIRA has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this NOPR is consistent with these principles.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a

substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (*www.energy.gov/gc/office-general-counsel*). DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003.

The following sections detail DOE's IRFA for this energy conservation standards rulemaking.

1. Description of Reasons Why Action Is Being Considered

DOE is proposing to amend the existing DOE minimum efficiency standards for CRACs as is required under EPCA's ASHRAE trigger requirement and the six-year lookback provision. DOE must update the Federal minimum efficiency standards to be consistent with levels published in ASHRAE Standard 90.1, unless DOE determines, supported by clear and convincing evidence, that adoption of a more stringent level would produce significant additional conservation of energy and would be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii) DOE must also review and determine whether to amend standards of each class of covered equipment in ASHRAE Standard 90.1 every 6 years. (42 U.S.C. 6313(a)(6)(C)(i))

2. Objectives of, and Legal Basis for, Rule

EPCA directs that if ASHRAE amends ASHRAE Standard 90.1, DOE must adopt amended standards at the new ASHRAE efficiency level, unless DOE determines, supported by clear and convincing evidence, that adoption of a more stringent level would produce significant additional conservation of energy and would be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii) Under EPCA, DOE must also review energy efficiency standards for CRACs every six years and either: (1) Issue a notice of determination that the standards do not need to be amended as adoption of a more stringent level is not supported by clear and convincing evidence; or (2) issue a notice of proposed rulemaking including new proposed standards based on certain criteria and procedures in subparagraph (B) (42 U.S.C. 6313(a)(6)(C)).

3. Description on Estimated Number of Small Entities Regulated

For manufacturers of CRACs, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. *See* 13 CFR part 121. The equipment covered by this proposed rule are classified under North American Industry Classification System (NAICS) code 333415,[22] ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' In 13 CFR 121.201, the SBA sets a threshold of 1,250 employees or fewer for an entity to be considered as a small business for this category.

DOE used publicly available information to identify potential small businesses that manufacture equipment covered this this rulemaking. DOE identified ten manufacturers of equipment covered by this rulemaking. Of the ten, nine manufacturers are original equipment manufacturers (OEM). DOE screened out companies that do not meet the definition of a ''small business'' or are foreign-owned and operated. DOE used subscription-based business information tools to determine head count and revenue of the small businesses. Of these nine OEMs, DOE identified three companies that are small, domestic OEMs.

Issue 1: DOE seeks comment on the number of small manufacturers producing covered CRACs.

4. Description and Estimate of Compliance Requirements

As noted in the section 2 of the Review under the Regulatory Flexibility Act, DOE must adopt amended standards at the new ASHRAE efficiency level unless DOE determines, supported by clear and convincing evidence, that adoption of a more stringent standard would produce significant additional conservation of energy and would be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)) Because DOE proposes no such determination, this NOPR proposes to adopt amended standards at the new ASHRAE efficiency level rather than impose more stringent standards. This is required by EPCA, but is also less burdensome for small manufacturers than a more stringent standard.

In reviewing all commercially available models in DOE's Compliance Certification Database, the three small manufacturers account for 13 percent of industry model offerings. For each of the three small manufacturers, approximately 90 percent of current models would meet the proposed levels. The small manufacturers would need to either discontinue or redesign non-compliant models. DOE recognizes that small manufacturers may need to spread redesign costs over lower shipment volumes than the industry-at-large. However, adoption of standards at least as stringent as the ASHRAE levels is required under EPCA; furthermore, adopting standards above ASHRAE levels (DOE's only other option under 42 U.S.C. 6313(a)(6)(A)(ii)) would lead to an even greater portion of models requiring redesign.

Issue 2: DOE requests comment on its understanding of the current market accounted for by small manufacturers. DOE also requests comment on its understanding of the efficiency of the equipment offered by such manufacturers.

5. Duplication, Overlap, and Conflict With Other Rules and Regulations

DOE is not aware of any rules or regulations that duplicate, overlap, or conflict with this rule.

6. Significant Alternatives to the Rule

As EPCA requires DOE to either adopt the ASHRAE Standard 90.1 levels or to propose higher standards, DOE lacks discretion to mitigate impacts to small businesses from the ASHRAE Standard 90.1 levels. In this rulemaking, DOE is proposing to adopt the ASHRAE 90.1–2019 levels.

Additional compliance flexibilities may be available through other means. Section 504 of the Department of Energy Organization Act, 42 U.S.C. 7194, provides authority for the Secretary to adjust a rule issued under EPCA in order to prevent ''special hardship, inequity, or unfair distribution of burdens'' that may be imposed on that manufacturer as a result of such rule. Manufacturers should refer to 10 CFR part 1003 for additional detail.

C. Review Under the Paperwork Reduction Act

Manufacturers of CRACs must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products

[22] The business size standards are listed by NAICS code and industry description and are available at: *www.sba.gov/document/support--table-size-standards* (Last accessed July 26th, 2021).

according to the DOE test procedures for CRACs, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including CRACs. (See generally 10 CFR part 429) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed regulation in accordance with the National Environmental Policy Act of 1969 (NEPA) and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion for rulemakings that establish energy conservation standards for consumer products or industrial equipment. 10 CFR part 1021, subpart D, appendix B5.1. DOE anticipates that this rulemaking qualifies for categorical exclusion B5.1 because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, none of the exceptions identified in categorical exclusion B5.1(b) apply, no extraordinary circumstances exist that require further environmental analysis, and it otherwise meets the requirements for application of a categorical exclusion. *See* 10 CFR 1021.410. DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met, or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, section 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.*

This proposed rule does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by the private sector. As a result, the analytical requirements of UMRA do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (Mar. 15, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf*. DOE has reviewed this NOPR under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively concluded that this regulatory action, which proposes amended energy conservation standards for CRACs, is not a significant energy action because the proposed standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on this proposed rule.

L. Information Quality

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.'' 70 FR 2664, 2667.

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and has prepared a report describing that peer review.[23] Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. DOE has determined that the peer-reviewed analytical process continues to reflect current practice, and the Department followed that process for developing energy conservation standards in the case of the present rulemaking.

[23] The 2007 ''Energy Conservation Standards Rulemaking Peer Review Report'' is available at the following website: *energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0.*

VII. Public Participation

A. Participation in the Webinar

The time and date of the webinar meeting are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this document, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit to *ApplianceStandardsQuestions@ee.doe.gov*. Persons who wish to speak should include with their request a computer file in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

Persons requesting to speak should briefly describe the nature of their interest in this rulemaking and provide a telephone number for contact. DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least two weeks before the webinar. At its discretion, DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Office. As necessary, requests to give an oral presentation should ask for such alternative arrangements.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the

webinar/public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the rulemaking.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the webinar will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the webinar.

A transcript of the webinar will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this NOPR. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule before or after the public meeting, but no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via *www.regulations.gov.* The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

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It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

Issue 1: DOE seeks comment on the number of small manufacturers producing covered CRACs.

Issue 2: DOE requests comment on its understanding of the current market accounted for by small manufacturers. DOE also requests comment on its understanding of the efficiency of the equipment offered by such manufacturers.

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking and request for comment.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation test procedures, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on February 22, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on February 23, 2022.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons set forth in the preamble, DOE proposes to amend part 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Section 431.92 is amended by adding, in alphabetical order, the definition for ''Ducted Condenser'' to read as follows:

§ 431.92 Definitions concerning commercial air conditioners and heat pumps.

* * * * *

Ducted Condenser means a configuration of *computer room air conditioner* for which the condenser or condensing unit that manufacturer's installation instructions indicate is intended to exhaust condenser air through a duct(s).

* * * * *

■ 3. Section 431.97 is amended by:

■ a. In paragraph (f), redesignating Table 13 as Table 15; and

■ b. Revising paragraph (e).

The revision reads as follows:

§ 431.97 Energy efficiency standards and their compliance dates.

* * * * *

(e)(1) Each computer room air conditioner with a net sensible cooling capacity less than 65,000 Btu/h manufactured on or after October 29, 2012, and before [date 360 days after the publication date of the final rule], and each computer room air conditioner with a net sensible cooling capacity greater than or equal to 65,000 Btu/h manufactured on or after October 29, 2013, and before [date 360 days after the publication date of the final rule], must meet the applicable minimum energy efficiency standard level(s) set forth in Table 12 of this section.

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TABLE 12 TO §431.97—MINIMUM EFFICIENCY STANDARDS FOR COMPUTER ROOM AIR CONDITIONERS

Equipment type	Net sensible cooling capacity	Minimum SCOP Efficiency	
		Downflow	Upflow
Air-Cooled	<65,000 Btu/h	2.20	2.09
	≥65,000 Btu/h and <240,000 Btu/h	2.10	1.99
	≥240,000 Btu/h and <760,000 Btu/h	1.90	1.79
Water-Cooled	<65,000 Btu/h	2.60	2.49
	≥65,000 Btu/h and <240,000 Btu/h	2.50	2.39
	≥240,000 Btu/h and <760,000 Btu/h	2.40	2.29
Water-Cooled with a Fluid Economizer	<65,000 Btu/h	2.55	2.44
	≥65,000 Btu/h and <240,000 Btu/h	2.45	2.34
	≥240,000 Btu/h and <760,000 Btu/h	2.35	2.24
Glycol-Cooled	<65,000 Btu/h	2.50	2.39
	≥65,000 Btu/h and <240,000 Btu/h	2.15	2.04
	≥240,000 Btu/h and <760,000 Btu/h	2.10	1.99
Glycol-Cooled with a Fluid Economizer	<65,000 Btu/h	2.45	2.34
	≥65,000 Btu/h and <240,000 Btu/h	2.10	1.99
	≥240,000 Btu/h and <760,000 Btu/h	2.05	1.94

(2) Each computer room air conditioner manufactured on or after [date 360 days after the publication date of the final rule], must meet the applicable minimum energy efficiency standard level(s) set forth in Table 13 and Table 14 of this section.

TABLE 13 TO §431.97—UPDATED MINIMUM EFFICIENCY STANDARDS FOR FLOOR-MOUNTED COMPUTER ROOM AIR CONDITIONERS

Equipment Type	Downflow and Upflow Ducted			Upflow Non-Ducted and Horizontal Flow		
	Net sensible cooling capacity	Minimum NSenCOP efficiency		Net sensible cooling capacity	Minimum NSenCOP efficiency	
		Downflow	Upflow ducted		Upflow non-ducted	Horizontal flow
Computer Room Air Conditioners, Floor-Mounted, Air-Cooled	<80,000 Btu/h	2.70	2.67	<65,000 Btu/h	2.16	2.65
	≥80,000 Btu/h and <295,000 Btu/h	2.58	2.55	≥65,000 Btu/h and <240,000 Btu/h	2.04	2.55
	≥295,000 Btu/h and <930,000 Btu/h	2.36	2.33	≥240,000 Btu/h and <760,000 Btu/h	1.89	2.47
Computer Room Air Conditioners, Floor-Mounted, Air-Cooled with Fluid Economizer	<80,000 Btu/h	2.70	2.67	<65,000 Btu/h	2.09	2.65
	≥80,000 Btu/h and <295,000 Btu/h	2.58	2.55	≥65,000 Btu/h and <240,000 Btu/h	1.99	2.55
	≥295,000 Btu/h and <930,000 Btu/h	2.36	2.33	≥240,000 Btu/h and <760,000 Btu/h	1.81	2.47
Computer Room Air Conditioners, Floor-Mounted, Water-Cooled	<80,000 Btu/h	2.82	2.79	<65,000 Btu/h	2.43	2.79
	≥80,000 Btu/h and <295,000 Btu/h	2.73	2.70	≥65,000 Btu/h and <240,000 Btu/h	2.32	2.68
	≥295,000 Btu/h and <930,000 Btu/h	2.67	2.64	≥240,000 Btu/h and <760,000 Btu/h	2.20	2.60
Computer Room Air Conditioners, Floor-Mounted, Water-Cooled with a Fluid Economizer	<80,000 Btu/h	2.77	2.74	<65,000 Btu/h	2.35	2.71
	≥80,000 Btu/h and <295,000 Btu/h	2.68	2.65	≥65,000 Btu/h and <240,000 Btu/h	2.24	2.60
	≥295,000 Btu/h and <930,000 Btu/h	2.61	2.58	≥240,000 Btu/h and <760,000 Btu/h	2.12	2.54
Computer Room Air Conditioners, Floor-Mounted, Glycol-Cooled	<80,000 Btu/h	2.56	2.53	<65,000 Btu/h	2.08	2.48
	≥80,000 Btu/h and <295,000 Btu/h	2.24	2.21	≥65,000 Btu/h and <240,000 Btu/h	1.90	2.18
	≥295,000 Btu/h and <930,000 Btu/h	2.21	2.18	≥240,000 Btu/h and <760,000 Btu/h	1.81	2.18
Computer Room Air Conditioner, Floor-Mounted, Glycol-Cooled with a Fluid Economizer	<80,000 Btu/h	2.51	2.48	<65,000 Btu/h	2.00	2.44
	≥80,000 Btu/h and <295,000 Btu/h	2.19	2.16	≥65,000 Btu/h and <240,000 Btu/h	1.82	2.10
	≥295,000 Btu/h and <930,000 Btu/h	2.15	2.12	≥240,000 Btu/h and <760,000 Btu/h	1.73	2.10

TABLE 14 TO §431.97— MINIMUM EFFICIENCY STANDARDS FOR CEILING-MOUNTED COMPUTER ROOM AIR CONDITIONERS

Equipment type	Net sensible cooling capacity	Minimum NSenCOP efficiency	
		Ducted	Non-Ducted
Air-Cooled with Free Air Discharge Condenser	<29,000 Btu/h	2.05	2.08
	≥29,000 Btu/h and <65,000 Btu/h	2.02	2.05
	≥65,000 Btu/h	1.92	1.94
Air-Cooled with Free Air Discharge Condenser and Fluid Economizer	<29,000 Btu/h	2.01	2.04
	≥29,000 Btu/h and <65,000 Btu/h	1.97	2
	≥65,000 Btu/h	1.87	1.89
Air-Cooled with Ducted Condenser	<29,000 Btu/h	1.86	1.89
	≥29,000 Btu/h and <65,000 Btu/h	1.83	1.86
	≥65,000 Btu/h	1.73	1.75
Air-Cooled with Fluid Economizer and Ducted Condenser	<29,000 Btu/h	1.82	1.85
	≥29,000 Btu/h and <65,000 Btu/h	1.78	1.81
	≥65,000 Btu/h	1.68	1.7
Water-Cooled	<29,000 Btu/h	2.38	2.41
	≥29,000 Btu/h and <65,000 Btu/h	2.28	2.31
	≥65,000 Btu/h	2.18	2.2
Water-Cooled with Fluid Economizer	<29,000 Btu/h	2.33	2.36
	≥29,000 Btu/h and <65,000 Btu/h	2.23	2.26
	≥65,000 Btu/h	2.13	2.16
Glycol-Cooled	<29,000 Btu/h	1.97	2
	≥29,000 Btu/h and <65,000 Btu/h	1.93	1.98
	≥65,000 Btu/h	1.78	1.81
Glycol-Cooled with Fluid Economizer	<29,000 Btu/h	1.92	1.95
	≥29,000 Btu/h and <65,000 Btu/h	1.88	1.93

	≥65,000 Btu/h	1.73	1.76

* * * * *

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